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DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT

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# Annexations Under the Growth Management Act: Barriers and Potential Solutions

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# **Annexations Under the Growth Management Act: Barriers and Potential Solutions**

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# Executive Summary

## Background

The Growth Management Act (GMA), as passed by the Washington State Legislature and signed into law by the Governor in 1990, includes the finding that:

[U]ncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.<sup>1</sup>

Inherent tension exists between some of the goals of the GMA for coordination and consistency and the institutions and processes needed to implement the GMA that were enacted prior to 1990. These include the state's long history of local governance, including the annexation process and the role of the boundary review boards.

The Washington State Department of Community, Trade and Economic Development (CTED) is directed by the Legislature to conduct a study of the barriers to annexation and to report to the local government committees of the Legislature no later than December 1, 2004.<sup>2</sup> CTED is directed to gather data on annexations and the characterization of land remaining in the unincorporated urban growth areas (UGAs)<sup>3</sup> of the six fastest growing counties in Western Washington (Snohomish, King, Pierce, Thurston, Kitsap, and Clark counties).<sup>4</sup> CTED must also survey the six counties, the cities within them, and the residents of unincorporated UGAs regarding barriers to annexation.<sup>5</sup> Finally, CTED is directed to provide recommendations to the Legislature as follows:

- Propose possible changes to city and county taxing authority which will serve to aid the transfer of annexation of remaining UGAs in a timely manner.
- Identify and discuss the need for funding of capital improvement projects needed to provide urban levels of service.
- Assess the role and statutory authority of the boundary review board and how altering their role and authority might facilitate annexation.
- Propose possible changes to growth management or annexation processes which will facilitate annexation.

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<sup>1</sup> RCW 36.70A.010.

<sup>2</sup> See Appendix A, 2003-2005 Supplemental Budget (ESHB 2459) Section 33, and Appendix B, HB 3068, 2004.

<sup>3</sup> Under the GMA (RCW 36.70A.110), all incorporated cities and towns are included in the UGA. In addition, counties may designate additional territory outside of cities and towns to accommodate projected population growth for the next 20 years. These designated urban areas outside of cities and towns are referred to as the "unincorporated UGA."

<sup>4</sup> A detailed characterization of the unincorporated UGAs is provided in Appendix C.

<sup>5</sup> Under the GMA (RCW 35.10.217 and 35A.14.005), annexations outside of UGAs are prohibited.

CTED hired a consultant team to conduct the surveys and gather data from the six counties.<sup>6</sup> The consultant team was comprised of AHBL, Inc., ECONorthwest, Henderson, Young & Company, and Ogden Murphy Wallace, P.L.L.C. CTED also convened an Annexation Study Advisory Committee to provide input on recommendations.

CTED had five months from the effective date of the proviso to the due date of December 1, 2004, to complete this study. An expanded scope for the study and amount of time to complete it would have allowed for a more thorough analysis and research of the options and recommendations discussed in the report.

The legislative budget proviso asked eight basic questions (the last two are combined). The questions and a brief answer to each based on information gathered through the surveys, the advisory committee, and existing data follows.

**1. How much progress have the six counties made toward annexation or incorporation of their unincorporated UGAs since adoption of their county-wide planning policies?**

Counties made significant progress in the initial years after adoption of their county-wide planning policies. However, ten or more years after the designation of UGAs in the six counties, less than half of the designated unincorporated UGA has been annexed. The table below provides the breakdown of annexation and incorporation totals by county. Through 2004, the amount of area in the unincorporated UGA that has been annexed or incorporated in the six counties is 142,754 acres (225 square miles), about 37 percent of the total. The population that has been annexed or incorporated during that time is 451,937, about 34 percent. There are more than 870,000 residents in about 245,000 acres (380 square miles) remaining within the current unincorporated UGAs of these counties. Although there are still several annexations occurring in these counties each year, overall, annexations and incorporations have decreased in number and area over the past few years. The last incorporation was the City of Sammamish in King County in 1999.

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<sup>6</sup> The text of the survey and a compilation of responses from counties and cities are provided in Appendices D, E, and F, respectively.

**Annexations and Incorporations by County**  
**County-Wide Planning Policy Adoption Date<sup>7</sup> – May 2004**

<b>County</b>	<b>Total UUGA Acres*</b>	<b>Total UUGA Population*</b>	<b>Acres annexed</b>	<b>Population annexed</b>	<b>Acres incorp.</b>	<b>Population incorp.</b>	<b>Acres remaining</b>	<b>Population remaining</b>
<b>Clark</b>	64,556	203,009	23,887	76,875	0	0	40,669	126,134
<b>King</b>	117,568	456,484	22,014	75,393	43,714	162,091 <sup>8</sup>	51,840	219,000
<b>Kitsap</b>	26,650	65,611	2,773	1,450	0	0	23,877	64,161
<b>Pierce</b>	86,700	284,424	10,223	8,360	23,526	106,200 <sup>9</sup>	52,951	169,864
<b>Snohomish</b>	58,957	207,941	12,249	20,801	0	0	46,708	187,140
<b>Thurston</b>	33,702	105,136	5,368	1,164	0	0	28,334	103,972
<b>TOTAL</b>	<b>388,133</b>	<b>1,322,605</b>	<b>76,514</b>	<b>184,043</b>	<b>67,240</b>	<b>268,291</b>	<b>244,379</b>	<b>870,271</b>

Source: OFM, 2004

\*Includes additions to unincorporated UGA since originally designated, but does not include UGA additions as a result of a county's update of its comprehensive plan in 2004 as required by RCW 36.70A.130.

## **2. What are the general characteristics of the remaining unincorporated UGA?**

The character of the remaining unincorporated area runs the gamut from undeveloped with few urban services (e.g., public safety and water) to fully developed with full urban services. The vast majority of unincorporated UGAs in the counties receives or has access to most of the urban services (e.g., public safety, water, sewer, transportation, parks, and libraries). In many areas, but not all, the urban services are at a lower level than that provided by nearby cities. Certain areas are considered “served” for water and sewer utilities due to a location within the service area of a designated purveyor, although the infrastructure to provide direct service may not currently exist.

All of the counties have unincorporated urban islands (i.e., unincorporated areas surrounded by incorporated cities) and all have at least one large unincorporated UGA that is assigned to one or more cities or has its own community identity. In all counties, the predominant land use of the remaining area is residential, with the next largest category being vacant land in most counties. Commercial and industrial land, typically the most attractive for cities to annex due to revenues generated, generally make up one of the smallest land use categories.

<sup>7</sup> CTED is directed to “detail the progress in each of the buildable lands counties to date in achieving annexation or incorporation within its urban growth area since adoption of the county’s county-wide planning policies to the present time” [ESHB 2459 (33)(a)]. The date of adoption of county-wide planning policies and a more detailed annexation and incorporation history to date for each county are provided in Appendix C.

<sup>8</sup> Includes the cities of Shoreline, Burien, Covington, Kenmore, Maple Valley, Newcastle, Woodinville, and Sammamish.

<sup>9</sup> Includes the cities of University Place, Lakewood, and Edgewood.

### **3. What are residents' attitudes toward annexation and incorporation?**

Residents' opinions varied widely from pro-annexation to pro-incorporation to maintaining the status quo (i.e., anti-annexation or incorporation).<sup>10</sup> Overall, the status quo was the most often stated preference, especially in those areas that already receive a significant level of urban services. Residents who thought their area had a strong sense of community identity and/or wanted to maintain their "rural lifestyle" generally opposed annexation. If they had to make a choice, incorporation was often preferred to annexation in those cases. Annexation was viewed more favorably by residents of those areas that: (1) already received some services from the adjoining city; (2) thought they would receive better services from the city; or (3) thought the city would do a better job of planning for new growth.

For most, it was an issue of change and how it might impact them. If the perception was negative (e.g., higher taxes, more regulations, more development, mandatory utility hook-ups), they opposed annexation. If their perception was positive (e.g., better services, lower taxes, better land use regulation and enforcement), they favored annexation. Residents strongly favored election over the other annexation methods. There was also general agreement among residents that more information and education about the process and its implications for them would help to allay their fears. Several residents spoke favorably about cities' efforts to meet with residents prior to annexation and address their concerns.

### **4. What are the obstacles to annexation from cities and counties' perspectives?**

According to cities responding (48 of the 82 cities responded and four of 14 towns – 54 percent), the key obstacles to annexation are:

- Residents fear paying higher taxes and infrastructure costs.
- Residents fear more development (i.e., change in their "rural" lifestyle).
- Residents are generally satisfied with the level of urban services they are currently receiving (also relates to "rural" lifestyle), in many cases from special districts.
- Annexing cities expect a net increase in costs (i.e., costs greater than revenues) to upgrade infrastructure and provide ongoing services.
- Annexing cities face expense and uncertainty in the annexation process due to opposition from special districts and appeals to the boundary review board (BRB).

The six counties responding (100 percent) to the same survey identified similar key obstacles to annexation:

- Residents fear higher taxes and infrastructure costs.
- Residents fear more development (i.e., change in their "rural" lifestyle).
- Residents distrust cities and/or developers' motives for annexation.

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<sup>10</sup> CTED is directed to "survey residents of urban unincorporated areas in each of the subject counties to identify their attitudes towards annexation or incorporation" [ESHB 2459 (33)(e)]. A more detailed summary of residents' responses is provided in Appendix G.

- Residents are generally satisfied with the level of urban services they are currently receiving (also relates to “rural” lifestyle), in many cases from special districts.
- Counties and special districts lose revenue upon annexation and are hesitant to invest their limited funds in infrastructure improvements that will be taken over by cities.
- Annexing cities expect a net increase in costs (i.e., costs greater than revenues) to upgrade infrastructure and provide ongoing services.
- Counties oppose annexations that “cherry pick” (i.e., annexations of properties that are good revenue sources, leaving low revenue and high service-cost properties for counties and special districts).

## **5. What changes to taxing authority will aid in the annexation of unincorporated UGAs by cities?**

One common theme heard from cities, counties, and some residents was that the state has a role in addressing the funding issues. Cities would like an immediate transfer of tax revenues from annexing areas, rather than the one- to two-year lag they currently experience with property tax receipts. Jurisdictions favored encouraging more cooperation among cities, counties, and special districts by providing incentives for joint applications or interlocal agreements in current state funding programs (e.g., grants, loans). Further consideration should be given to establishing state funds for capital and operating needs to facilitate the transition. Consideration should also be given to creating special taxing districts or temporary tax surcharges that would encourage annexation and at least partially address the cost of annexing these areas.

## **6. What is the need for funding of capital improvements?**

Capital improvement needs vary widely by area depending upon what level and type of services are already provided. The majority of the unincorporated UGA in each county is within the service area of a water and sewer purveyor. However, in some areas the capacity, extent, and/or condition of the existing system require improvements to meet urban standards and provide service to all portions of individual service areas. In some large segments of individual unincorporated UGAs (e.g., East Renton plateau in King County, Cascadia in Pierce County), sewer service is not yet available.

Emergency response concerns mostly referred to police rather than fire. Transportation needs were generally more of a concern than the other urban services. Several of the counties identified arterial road segments that did not meet concurrency or other standards. Cities generally are concerned that county road standards may not meet urban standards. For example, counties historically did not require the same standards as cities for curbs, gutters, sidewalks, landscaping, and streetlights in subdivisions. Upon annexation, there is an expectation on the part of the city and the residents that these areas will receive the same level of urban services as other parts of the city.

The only available estimate of what the need might be for necessary infrastructure funding came from a state infrastructure study in 1999, which estimated the total statewide need for infrastructure funding for the six-year period from 1998 to 2003 to be



more than \$3 billion based on local government capital facilities plans.<sup>11</sup> Since these are the six most urban counties, it is likely that they account for at least a majority of the need, and a significant portion of that is in the urban growth areas.<sup>12</sup>

**7. How might the role and authority of the boundary review boards (BRBs) be altered to facilitate annexation? And 8. How might GMA and annexation statutes be amended to facilitate annexation?**

There was some consensus on the part of cities and counties about possible changes to the role of the BRB and annexation statutes. They generally favored a reduced role for the BRB when the planning for an area had been completed through an adopted comprehensive plan or an interlocal agreement with the county. In those cases it was thought that the BRB added unnecessary cost and uncertainty when the annexation was already deemed consistent with the goals of the GMA. On the other hand, residents and special districts generally favored more process and a vote that gave them more of a role in the decision. The BRBs indicated that they have an important role as an objective arbiter when an annexation is proposed.

**Summary of Recommendations**

The recommendations logically fall into two categories: (1) local government revenues and expenditures (taxing authority and capital improvement needs); and (2) the annexation process (role of the BRB, annexation statutes, and GMA statutes).

Two key themes emerged from the surveys, focus groups, and discussions of the advisory committee that underlie all of the recommendations discussed. There was clear support for state funding to assist with the annexation costs of transition from counties and special districts to cities. There was also clear recognition of the importance of interlocal cooperation and coordination and the utility of joint planning and interlocal agreements to facilitate annexations. Where state funding or other incentives are provided for joint planning and/or interlocal agreements, some minimum standard for what elements or issues are addressed by the participating local governments in the plan or agreement should be considered.

A variety of ideas were suggested by the Annexation Study Advisory Committee and others.<sup>13</sup> Some of the approaches suggested go beyond the scope of this study. For example, some proposals included the creation or expansion of state capital funding

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<sup>11</sup> The *State of Washington Local Government Infrastructure Study* (Final Report, June 1999) was developed by the Public Works Board, in consultation with CTED and the Legislative Evaluation and Accountability Program (LEAP). Infrastructure categories covered by the study included roads, bridges, domestic water systems, sanitary sewer systems, and stormwater systems. Local governments included in the study encompassed cities, counties, special purpose water and sewer districts, and public utility districts providing water. The \$3 billion represents the gap in funding between the total funding need and identified funding sources and amounts for 1998 to 2003.

<sup>12</sup> CTED is unable to break down the data to reflect the gap in funding for the six counties and the cities within them that are the subject of this study.

<sup>13</sup> For a list of representatives attending the Advisory Committee meetings, see Appendix H.

sources for all infrastructure within the UGA, including both incorporated and unincorporated areas. However, in keeping with the scope of the study, recommendations for both state and local funding are limited to approaches that directly address the barriers to annexation in unincorporated UGAs.

Each of the recommendations is discussed in more detail in the body of the study. All options considered by CTED include a discussion of both the pros and cons of each option.

### **Recommendations for local government revenues and expenditures**

A variety of tools should be available to local governments to finance the transfer of governance from counties and special districts to cities, whether through annexation or incorporation. Counties and cities expressed a strong interest in additional sources of funding from the state both for capital facilities and operating costs. CTED recommends that an array of tools be available to local governments, but that funding come from both state and local sources to demonstrate the state and local governments' partnership and commitment to planning for growth.

The scope and time allowed for the study did not provide for a complete analysis of the tools discussed in the study. Tools that deserve further study and consideration by the Legislature include:

- Providing incentives for interlocal agreements, or for joint applications for state planning and infrastructure funding.
- Reducing the lag time after annexation to collect property and sales tax revenues.
- Creating a state fund for annexations – possible sources of funding to consider include:
  - Authorizing a local 1 percent sales tax on new construction credited against the state sales tax.
  - Earmarking more of the state's real estate excise tax for state infrastructure funds to locals.
  - Diverting a portion of the state property tax.
  - Diverting the 0.08 local sales/use tax in "urban" counties for infrastructure funding in the unincorporated UGA.
- Creating more local tools for funding annexations:
  - Authorizing counties to impose a utility tax in unincorporated UGAs, revenues from which would be largely dedicated to supporting city-borne annexation transition costs.
  - Authorizing cities to impose a utility tax surcharge.
  - Authorizing cities and/or counties to create an annexing capital facilities district.

The state Office of Financial Management (OFM) has been charged by the Legislature in the Supplemental Budget for fiscal year 2005 (ESHB 2459, Section 118) to study land use and local government finance, and to make recommendations on the impact that current trends in the city and county revenue sources and expenditures may have on land

use decisions made by counties and cities in meeting goals of the GMA. CTED recommends that the OFM study include further analysis of the tools listed above for potential solutions to funding issues.

Funding for the OFM study expires on June 30, 2005, six months after the CTED annexation study.

### **Recommendations for annexation process – Growth management, annexation, and boundary review boards**

Given Washington's history of local governance, any recommendation must recognize the need for coordination and collaboration. Joint planning and interlocal agreements that include special districts should be encouraged and incentives provided. Joint planning and interlocal agreements include the following benefits:

- Provide for transition of tax revenues and/or revenue-sharing to ease the capital facilities and operating costs of transition to counties, cities, and special districts.
- Allow for phasing in of city infrastructure provision and services and phasing out of county and/or special district infrastructure provision and services.
- Engage citizens early in the planning process and build a relationship between the community and an annexing city.
- Engage affected special districts early in the process and address issues of assumption.
- Authorize county collection of impact fees in the annexation area for future provision of city services, e.g., acquisition of parks.
- Ensure planning for a future annexation area is consistent with planned patterns of development within the city.
- Ensure the smooth transfer of permitting authority.

There are a number of good examples around the state where joint planning and interlocal agreements have facilitated the transfer of governance from a county and special districts to an annexing city. Please see Appendix J for a few of these examples.

The advisory committee recognized the importance of addressing planning and infrastructure financing issues in any interlocal agreement, but recognized that participating entities would be best able to identify what basic issues would need to be addressed in an agreement. However, where state funding or other incentives are provided for joint planning and/or interlocal agreements, some minimum standard for what issues the plan or agreement addresses should be considered. As with financing, CTED recommends consideration of an array of tools to be made available to local governments to address the unique needs of their community. Finally, and equally as important, citizens need to understand and be involved in the process.

*1. Limit boundary review board review when joint planning and/or interlocal agreements have been achieved.*

(a) Revise RCW 36.93.157 to provide that the BRB must determine the consistency of the annexation with RCW 36.70A.020 (GMA goals), 36.70A.110 (designation of the UGA), and 36.70A.210 (county-wide planning policies), except when the county and city have jointly adopted a plan for the area and there is an interlocal agreement that includes any special districts. If joint planning has occurred and an interlocal agreement has been adopted, annexation should automatically be deemed consistent and not require BRB review.

(b) Revise the applicability of the “urban in character” objective in RCW 36.93.180(8). The objective could be eliminated, or be determined to have been met, in counties fully planning under the GMA because cities are not allowed to annex outside of designated UGAs in those counties. The “urban in character” objective would remain applicable in counties not fully planning under the GMA because no UGA has been designated consistent with GMA requirements.

(c) More clearly define the applicability of the “prevention of abnormally irregular boundaries” objective in RCW 36.93.180(4), or eliminate the objective where joint planning has occurred.

*2. Create more streamlined annexation methods for small annexations.*

(a) Raise the BRB threshold in RCW 36.93.110 from areas less than 10 acres and less than \$2 million in assessed value to at least twice the current threshold. In raising the threshold, consideration should be given to an additional threshold that would address any impacts to a special district resulting from a reduction in its tax or ratepayer base.

(b) Further revise the requirements for island annexations (SHB 1755 enacted in the 2003 Legislative Session):<sup>14</sup>

(i) Require counties and cities to plan jointly for urban islands.

(ii) Raise the percentage of voters that must sign a petition for a referendum to the voters on a completed annexation to a simple majority (e.g., from 15 percent to 50 percent +1).

*3. Revise the petition method of annexation to require signature of property owners of 60 percent of the value of the property in the proposed annexation for both code and non-code cities and towns.*

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<sup>14</sup> SHB 1755 is codified at RCW 35.13.470 and 480, 35A.14.460 and 470, and 36.70A.110(7).

Change the requirement for the petition method in RCW 35.13.125 for first- and second-class cities and towns to be consistent with the petition method requirement for code cities in RCW 35A.14.120. This would make the requirement of 60 percent in value of the property for which annexation is petitioned the same for all cities and towns.

*4. Consider requiring counties, cities, and special districts to work together to identify potential annexation and incorporation areas in the county-wide planning policies.*

Consider requiring counties, cities, and special districts to work together to identify potential annexation areas in the county-wide planning policies that are assigned to a specific city to make it clear which city is expected to annex an area. County-wide planning policies should also recognize that some unincorporated UGAs may be too big to annex and will need to be designated for incorporation.

*5. Enhance the public process for designating UGAs and annexations.*

(a) Encourage counties, cities, and special purpose districts to work together in the planning process under the GMA through consultation and coordination. Consultation and coordination can be encouraged through financial incentives for joint planning and interlocal agreements, as discussed in the Local Government Revenues and Expenditures recommendations above.

(b) Encourage counties and cities to work more closely with residents in potential annexation areas and to educate them regarding the costs and benefits of annexation. Encourage cities to hold public meetings and to engage adjacent communities in the planning process during UGA designation and the development of any joint plans with the county and/or special districts.

(c) Recognize the BRB's public outreach and education role. The BRB has no stake in the outcome of the annexation and is seen as an impartial provider of information to the public. It can also provide information that a city may not. In the new city incorporation process, the BRB holds a public hearing after the initiator submits a notice to the county. This could be done for annexations early in the process upon the request of a county or city.

## Introduction

The Washington State Growth Management Act (GMA), as enacted in 1990 and subsequently amended, envisions comprehensive and coordinated land use planning by local governments. GMA goals emphasize the accommodation of projected population growth with efficient provision of services in urban areas where growth should occur concurrently with development. The requirement that each county fully planning under the GMA designate urban growth areas (UGAs) where urban growth is to occur anticipates that cities will eventually annex or incorporate in these areas.

The annexation process was designed to address many of these goals prior to the enactment of the GMA. For example, the boundary review boards (BRBs) must consider a number of objectives similar to those considered in designating UGAs – logical service areas, incorporation, or annexations that are urban in character, and conserve agricultural lands and protect rural lands. However, there was no requirement that annexations be planned or coordinated among local governments.

The annexation process also requires property owner and citizen participation for most methods of annexation either by election or petition. The GMA's emphasis on coordinated planning and early and continuous public participation is designed to address citizens' issues with urbanization and the coordinated provision of urban public services. However, the UGA designation process under the GMA does not appear to have adequately addressed some of the fundamental issues surrounding annexation that predate the GMA and continue to exist. For example, there is still opposition by some residents regarding the inclusion or exclusion of certain areas in the UGA.

The fundamental issues, obstacles, and attitudes regarding annexation and incorporation all derive from the perspectives of different groups and agencies. Typically, these issues are economic and political in nature. Economic aspects include costs to residents, costs and revenues to local governments, and efficiency of providing infrastructure and services. Political aspects include changing government representation, overlapping service providers, and sense of community. Annexation and incorporation bring change; people naturally oppose those actions when they believe the change will make them worse off. Even if one could demonstrate unequivocally that an annexation solved a lot of problems for a lot of people, it will almost certainly not make everyone better off.

Following is a summary of the typical issues for each of the groups and local governments affected by annexation and incorporation:

- **Counties** – Counties share the objectives of the GMA and recognize the role of annexation in GMA implementation. However, they have different challenges than cities and additional requirements to meet under the GMA (e.g., cities are not required to plan for rural lands and generally do not have to plan for resource lands). Under the GMA, counties are expected to provide regional, rather than local, urban services. As many areas annex or incorporate, counties are faced with declining revenues from a shrinking tax base and the loss of any significant investment in annexing areas. At the same time, regional service costs are increasing and counties

are continuing to provide urban level services, albeit less efficiently, to areas that are increasingly geographically isolated and dispersed.

- **Cities** – Cities are generally supportive of the goals of the GMA and annexation to implement the GMA. Cities, in particular, are interested in annexation to gain benefits and protect themselves from costs. They can gain fiscal benefits by annexing land that is now or can be developed commercially and industrially. They can protect themselves from costs by annexing residential areas at their fringe that are already using many city services without paying taxes, and which may be imposing special costs on the city (e.g., if the area lacks urban level roads and water supply that make supplying it with urban level fire protection more expensive). However, they may be unable to annex already urbanized areas when the costs of annexation exceed the revenues.
- **Special purpose districts** – It is common for the incremental expansion of city boundaries over time to reach into the service areas of special districts such as water, sewer, fire, and library. Even if such districts do not oppose the urbanization of that part of their district, the loss of that tax base and/or ratepayers can create fiscal and personnel problems for the remaining part of the district.<sup>15</sup>
- **Property owners and residents** – An important consideration is that not all residents are property owners and not all property owners are residents. Those residents that are also property owners may not see any benefits to annexation unless they believe they would receive better services or have lower taxes. The argument that annexation will increase property values may persuade neither owners nor renters: for them, that means increased taxes or rents and possible displacement. Property owners with vacant land are often the most amenable to annexation because they need or want to obtain urban services to develop their land. In some cases, a history of miscommunication or mistrust of the annexing city has created entrenched opposition – even if it would benefit the annexing area.

Understanding all the problems different entities have with annexation (the obstacles) is a necessary pre-condition to finding reasonable solutions to those problems.

### **CTED's Charge from the Legislature**

HB 3068, introduced during the 2004 Legislative Session, proposed a study to detail the progress of annexation in the key urban counties of the state and to identify both barriers and incentives to achieving full annexation or incorporation of the urban areas in these counties.<sup>16</sup> The bill received strong support from King County, where there are challenges to annexing the remaining unincorporated portions of the county's UGA. HB 3068 did not pass, but the Supplemental Budget (ESHB 2459), passed by the Legislature and signed into law by the Governor, provides for an annexation study in six counties (King, Pierce, Snohomish, Kitsap, Thurston, and Clark). The proviso states:

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<sup>15</sup> Only in fire and library districts are the boundaries affected by city annexations. Annexations do not affect the boundaries of water-sewer districts unless the annexing city chooses to assume jurisdiction.

<sup>16</sup> See Appendix B.

(33) \$60,000 of the general fund – state appropriation for fiscal year 2005 is provided solely for a study under (a) through (i) of this subsection. Expenditure of this amount is contingent upon a \$60,000 match from a county with a population exceeding one million. The department shall conduct a study to:

(a) Detail the progress in each of the buildable land counties to date in achieving annexation or incorporation of its urban growth area since adoption of the county's county-wide planning policies to the present time by documenting:

- (i) The number of acres annexed;
- (ii) The number of acres incorporated;
- (iii) The number of residents annexed, incorporated, and remaining in urban unincorporated areas; and
- (iv) The characteristic of urban land remaining unincorporated in terms of assessed value, infrastructure deficits, service needs, land use, commercial development, and residential development;

(b) Determine the characteristics of remaining urban unincorporated areas and current statutes, and estimate when all urban unincorporated areas in each county will be annexed or incorporated, based on the rate of progress to date;

(c) Survey the counties to identify those obstacles which, in their experience, slow or prohibit annexation;

(d) Survey the cities in each of the subject counties to identify obstacles, which in their experience, slow or prohibit annexation;

(e) Survey residents of urban unincorporated areas in each of the subject counties to identify their attitudes towards annexation or incorporation;

(f) Propose possible changes to city and county taxing authority which will serve to aid the transfer of annexation of remaining urban growth areas in a timely manner;

(g) Identify and discuss the need for funding of capital improvement projects needed to provide urban levels of service;

(h) Assess the role and statutory authority of the boundary review board and how altering their role and authority might facilitate annexation; and

(i) Propose possible changes to growth management or annexation processes which will facilitate annexation.

The department shall report to the local government committees of the legislature no later than December 1, 2004.

If a county does not wish to participate in this study, the county administrative officer shall submit those intentions, in writing, to the department no later than July 1, 2004.

All six counties chose to participate in the study.

## **Methodology for the Study**

The Washington State Department of Community, Trade and Economic Development (CTED) hired a consultant team, led by AHBL, Inc., to conduct the surveys and help with data collection from the six counties, as well as to work with CTED to develop the recommendations. AHBL's team included ECONorthwest, Henderson, Young & Company, and an attorney with Ogden Murphy Wallace, P.L.L.C. The team brought the



necessary expertise in growth management, annexation, land use, surveys, and fiscal and legal matters to assist CTED in conducting the study and completing it within the budget and schedule mandated in the proviso.

The study required the compilation of opinions about barriers to annexation and incorporation from city and county officials as well as from residents of unincorporated UGAs in each of the six counties. In addition, the team compiled data and information from the counties and the state Office of Financial Management (OFM) on annexation history and the character of the remaining unincorporated UGAs in each of the counties. The other key source of information regarding barriers and possible solutions was from the Annexation Study Advisory Committee. The advisory committee comprised representatives from the six counties and the cities within them, special purpose districts, state agencies, and the Municipal Research & Services Center (MRSC).<sup>17</sup> Finally, input was solicited from other stakeholders, including the Washington Association of Realtors, the Building Industry Association of Washington, the Association of Washington Business, the Washington Farm Bureau, 1000 Friends of Washington, the Washington League of Women Voters, and the Washington Chapter of the American Planning Association.

Recommendations were developed by CTED and the consultant team based on the information collected, comments from the advisory committee and stakeholders, and the experience and expertise of the team.

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<sup>17</sup> For a list of the Annexation Study Advisory Committees members, please see the front of the report. For an attendance list, see Appendix H. Also, a list of annexation barriers and strategies identified by the committee is provided in Appendix I.

## **Characterizations of Unincorporated Urban Growth Areas by County**

The budget proviso for the study specifically required the following information for each of the six counties:

- (a) Detail the progress in each of the buildable land counties to date in achieving annexation or incorporation of its urban growth area since adoption of the county's county-wide planning policies to the present time by documenting:
  - (i) The number of acres annexed;
  - (ii) The number of acres incorporated;
  - (iii) The number of residents annexed, incorporated, and remaining in urban unincorporated areas; and
  - (iv) The characteristic of urban land remaining unincorporated in terms of assessed value, infrastructure deficits, service needs, land use, commercial development, and residential development;
- (b) Determine the characteristics of remaining urban unincorporated areas and current statutes, and estimate when all urban unincorporated areas in each county will be annexed or incorporated, based on the rate of progress to date....<sup>18</sup>

Summaries of this information for each of the six counties are provided below. For more detailed information on the annexation history and characterization of the unincorporated UGA in each county, please see Appendix C.

### **Clark County**

Clark County contains seven cities and towns, each with its own unincorporated UGA. The entire unincorporated UGA consists of 40,670 acres with a population of 126,134 (2000 census) and is generally located in the following areas (in ascending order by approximate size):

1. Adjacent to Yacolt, La Center, Ridgefield, Washougal, and Camas.
2. Adjacent to Battleground.
3. Adjacent to Vancouver.

Residential is the predominant land use. Nearly one-quarter of the unincorporated UGA lands are designated as vacant; these areas could be attractive for annexation depending upon zoning and development constraints. Vancouver has the largest portion of the unincorporated UGA (49 square miles) with 77 percent of the area and 90 percent of the population. Annexation of the entire Vancouver unincorporated UGA would more than double the city's current area.

All of Clark County is within a water service area. Sewer service is generally provided by the jurisdiction associated with each unincorporated UGA. The provision of treatment capacity in some areas may represent a constraint in the timing of urban development.

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<sup>18</sup> ESHB 2459, Section 33.

The Vancouver Parks and Recreation Department owns and maintains 1,647 acres of parkland within the unincorporated UGA. The county has identified roadways with existing deficiencies relative to their level of service (LOS) standards, primarily on the major state highways in the Vancouver urban area. The county has stated that it is committed to correcting these deficiencies within the next six years.

All of the unincorporated UGA in Clark County has been assigned to a specific city. Cities annexed a population of 76,875 and 23,887 acres between 1993 and 2004; most of the annexation activity occurred prior to 1999. Vancouver accounted for 11,258 acres and 58,171 residents in one annexation in 1997. The majority of the Vancouver unincorporated UGA is already developed; however, other cities' unincorporated UGAs are primarily undeveloped or developed at very low densities.

## Urban Growth Areas 2004

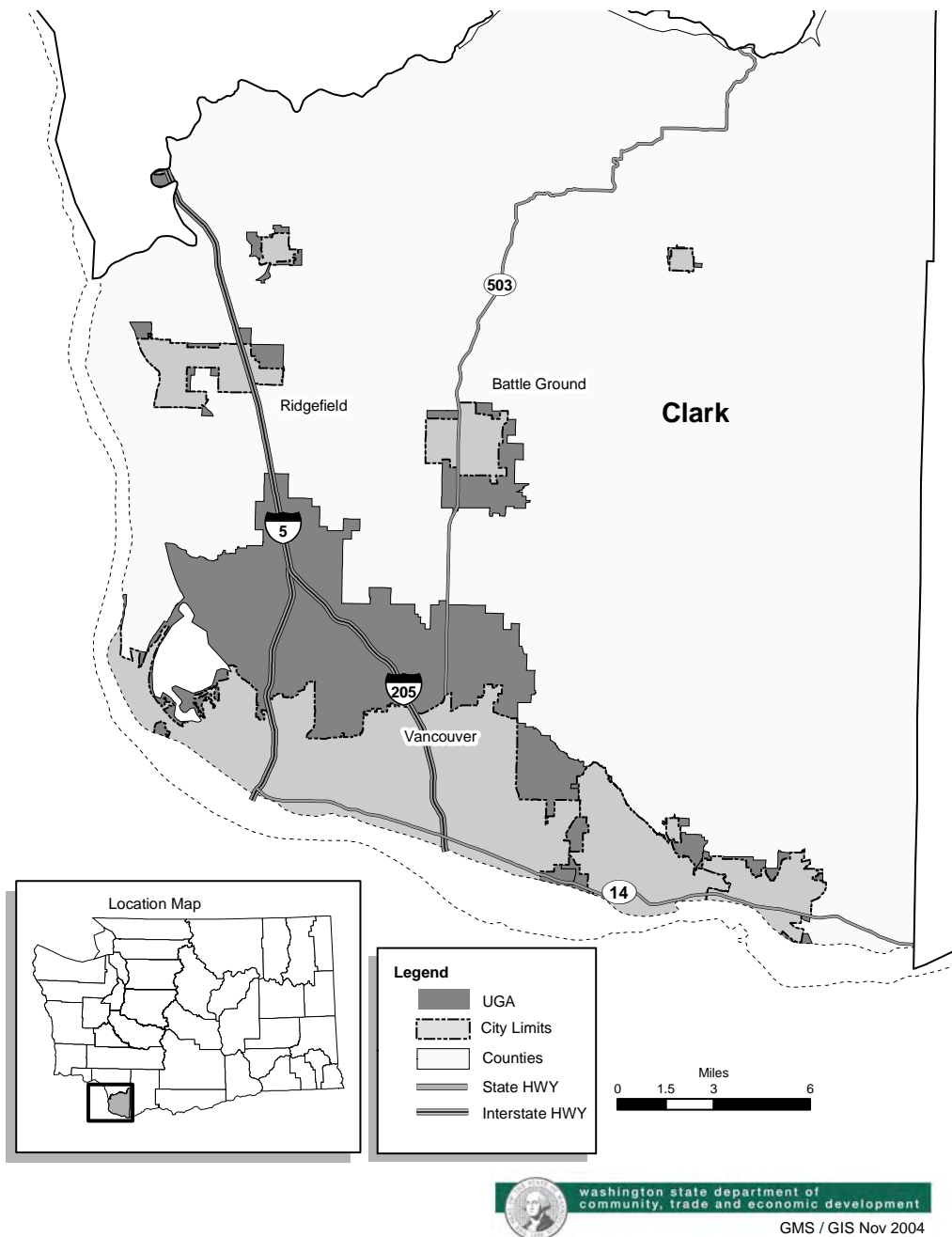


Figure 1. Map of Unincorporated UGA for Clark County

## King County

The unincorporated portion of the UGA consists of a number of separate islands and peninsulas. The ten largest of these have been designated as major “potential annexation areas” (PAAs), and they are the focus of the county’s current initiative to facilitate annexation by 2012, that is, within the 20-year planning horizon envisioned by the county-wide planning policies. Two of these ten largest areas are unclaimed – no city has yet to include them as a PAA.

In addition to the major PAAs, there are numerous small unincorporated islands that are difficult to serve. Not all of these islands are claimed by an adjacent city. The unincorporated UGA as a whole covers approximately 81 square miles with a population of about 219,000 in 2004.

Except in limited areas such as portions of the West Hill and East Renton PAAs, utility services are generally available. Fire and utility services are primarily provided by special districts. King County has an adopted LOS E for roadways in the unincorporated UGA. The county does not currently have funding for transportation capacity projects. The county currently has 4,373 acres of park land in the unincorporated UGA, much of it regional rather than local in nature.

King County cities annexed 55,530 residents and 16,548 acres of land between 1995 and 2004. Kent accounts for almost one-third of the acreage and a higher percentage of the residents with two annexations totaling over 5,000 acres. King County is currently taking an aggressive approach to annexations. The county council in 2004 approved a multi-year annexation initiative aimed at hastening the rate of annexation. This will be done in part by making funds available to the cities to offset the transition cost of annexing large areas. The county also funds annexation and incorporation studies.

Figure 2 shows the unincorporated UGA for King County, with the exception of the Town of Skykomish and its unincorporated UGA.

## Urban Growth Areas 2004

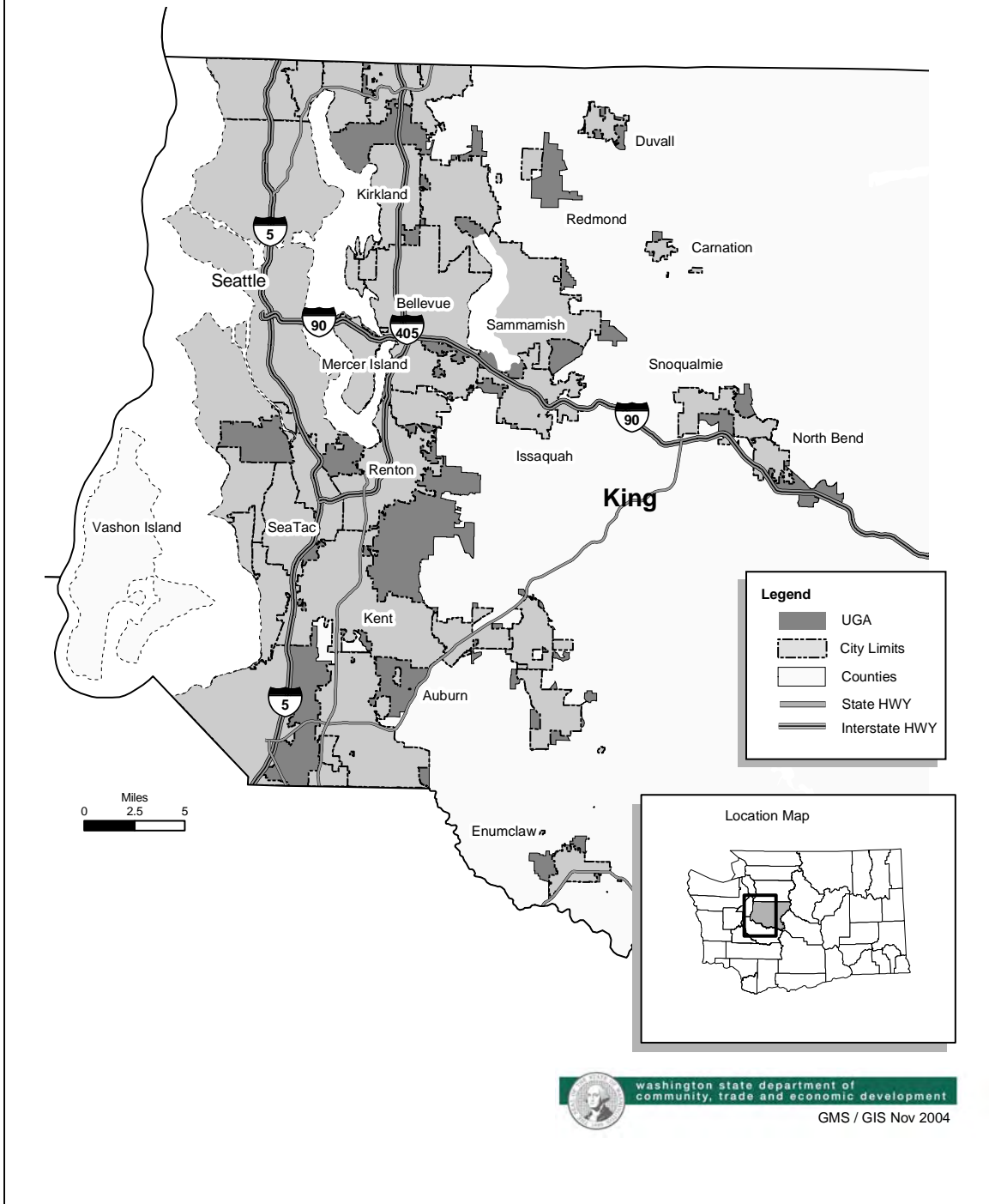


Figure 2. Map of Unincorporated UGA for King County

## **Kitsap County**

Of Kitsap County's four cities, all but Bainbridge Island have associated unincorporated UGAs. There are also six unincorporated UGAs designated by the county but not currently assigned to a specific city. Unassigned areas include the communities of Kingston and Silverdale, representing about 5,555 acres that are not adjacent to an existing city and, therefore, are more likely to incorporate as new cities than to annex. The total unincorporated UGA comprises 23,877 acres. The general location of the unincorporated UGA, in ascending order by approximate size is:

1. Gorst (169 acres).
2. Kingston (1,143 acres).
3. Poulsbo (1,263 acres).
4. Bremerton (1,783 acres).
5. McCormick Woods (2,388 acres).
6. Port Orchard (2,803 acres).
7. South Kitsap Industrial Area (SKIA) (3,726).
8. Silverdale (4,412 acres).
9. Central Kitsap (6,191 acres).

The estimated 2004 population in the unincorporated UGA is 64,161. Approximately 55 percent of the unincorporated UGA, exclusive of road rights-of-way, is currently developed. Over two-thirds (72 percent) of the developed lands is in residential use. Commercial and industrial lands, which typically generate greater revenue than they cost to serve, constitute very small proportions of the total acreage. About 27 percent of the total acreage has some level of environmental constraint (e.g., floodplains, wetlands, geologic hazards) that could limit the type or amount of development.

Sanitary sewer service from cities and the county is available for 75 percent of the parcels. Water service provided by cities and public utilities is available for 64 percent of the parcels. The transportation level of service for arterials is LOS D. There are a number of roadway segments that are out of conformance with the adopted LOS. However, the county allows 15 percent of the arterial network to be out of compliance. The county as a whole is well above 85 percent compliance, and it has a number of transportation capacity projects planned. There are 1,244 acres of parks and recreation areas within the unincorporated UGA that are owned and maintained by the county or another entity.

Cities annexed 1,450 residents and 2,773 acres of land between 1993 and 2004. Bainbridge Island is incorporated and has no additional annexation potential. Kitsap County's unincorporated UGAs are two-thirds of the land area for all four cities combined. The three cities contiguous to portions of the unincorporated UGA have annexed only a small percentage of the area in the last ten years and less than 90 acres since 2000. The county has coordinated extensively with the cities in addressing future service provision and land use in portions of the unincorporated UGA through the joint planning area process. The county held completion of this process precedent to annexation, which may have restricted annexation in some areas in recent years.

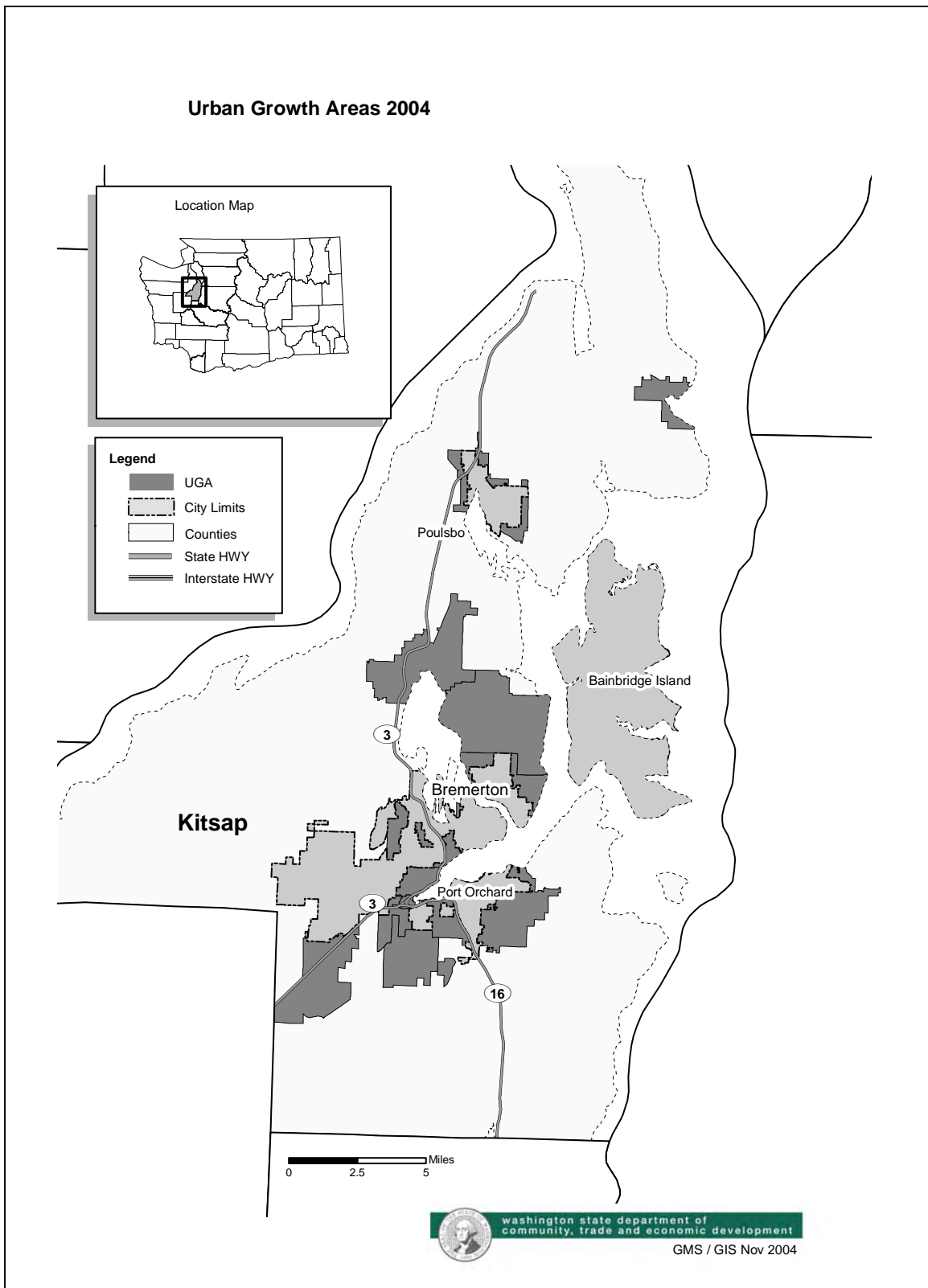


Figure 3. Map of Unincorporated UGA for Kitsap County



## Pierce County

Pierce County contains 23 cities, 17 of which have associated unincorporated urban growth areas (UGAs). The large area that includes contiguous cities, their respective service areas, and the County's urban service area is referred to as the comprehensive urban growth area (CUGA). The CUGA includes everything but satellite cities (i.e., Bonney Lake, Orting, Eatonville, South Prairie, Roy, Buckley, and Gig Harbor) and their unincorporated UGAs that were not contiguous with the larger area when the CUGA was established.

Pierce County coordinated with cities to assign urban service areas in the CUGA, including an urban service area assigned to the county. These urban service areas are roughly equivalent to unincorporated UGAs as they have been described in this report. According to the county-wide planning policies, cities can annex within their unincorporated UGA and into portions of the CUGA, even if it is not assigned to that jurisdiction. The county assumes that some parts of the CUGA could be urban but remain unincorporated long term, beyond the 20-year planning horizon.

The county has primary responsibility for providing services in the CUGA. The total unincorporated UGA comprises 52,951 acres with an estimated population of 169,864. The general location of the unincorporated UGA, in ascending order by approximate size is:

1. Unincorporated islands within and between jurisdictions.
2. Tacoma unincorporated UGA.
3. Pierce County urban service area.

About half to three-quarters of the unincorporated UGA is currently developed. Two-thirds or more of the developed lands are in residential use. Commercial and industrial developments constitute very small portions of the total acreage. About 11 percent of the total unincorporated UGA acreage is mapped as environmentally constrained. Pierce County has designated the unincorporated UGA primarily for residential uses with some commercial designations along transportation corridors. The county's urban service area also includes extensive employment area designations and a master planned community designation.

Pierce County provides regional park facilities county-wide with a variety of park types at locations in rural areas, in the unincorporated UGA, and in cities to meet county-wide LOS standards. All areas of the unincorporated UGA are within a water utility service boundary. Most areas are within the sewer service area of Pierce County or a city. There are service area gaps in several locations within the unincorporated UGA, the most significant of these is the large Cascadia CUGA south of Bonney Lake.

There are no transportation issues related to capacity in any of the unincorporated UGAs associated with a city. However, the county has identified a number of roadway sections within the CUGA that do not currently meet the adopted LOS standard. Projects to

address existing transportation system deficits are included in the 2004 to 2009 Transportation Improvement Program.

Pierce County cities annexed 8,320 residents and 9,967 acres of land between 1993 and 2004. Of the 85 annexations that were completed during this period, 35 included no residents. This suggests that a significant portion of the annexation activity was development driven or had existing nonresidential uses.

# Urban Growth Areas 2004

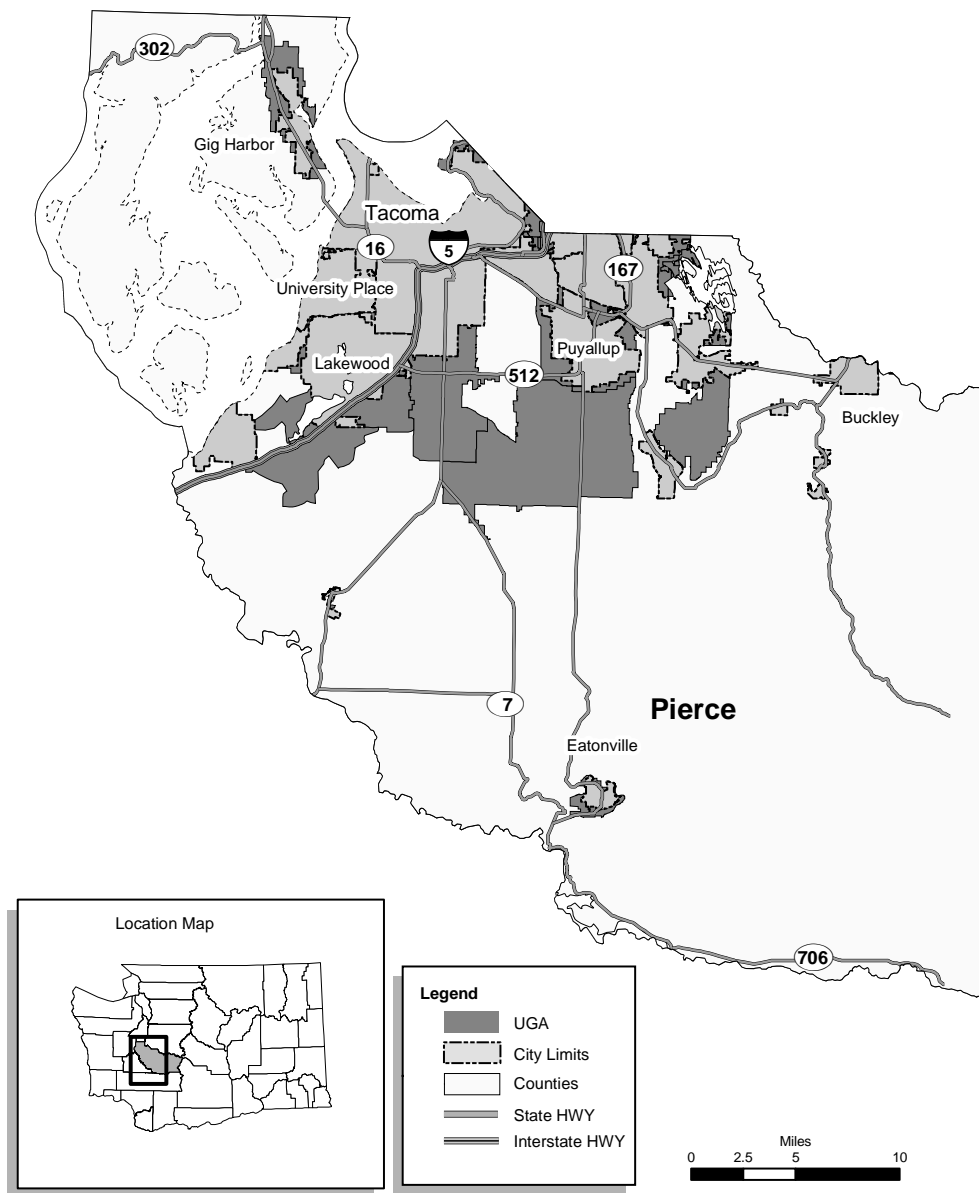


Figure 4. Map of Unincorporated UGA for Pierce County

## **Snohomish County**

Snohomish County contains 20 cities and towns, all with an assigned portion of the unincorporated UGA. There are also two parts of the unincorporated UGA, Maltby and Silver Firs, separately designated by the county. The entire unincorporated UGA consists of 46,708 acres with a population of 187,140 (2000 census) and is generally located in the following areas (in ascending order by approximate size):

1. Islands within some cities.
2. Adjacent to the smaller cities outside of the I-5 corridor.
3. Between Arlington and Marysville.
4. Surrounding Lake Stevens.
5. Southwest county municipal urban growth area (MUGA), along the I-5 corridor “filling in” the area among the cities of Everett, Mukilteo, Mill Creek, Lynnwood, Brier, and Bothell, containing about 74 percent of the total unincorporated UGA population.

Nearly half of the land is in residential use. Commercial and industrial land constitutes a small proportion of the total. More than 12 percent of the total unincorporated UGA acreage is mapped as environmentally constrained. Everett and Mill Creek have the largest portions of the MUGA. The majority of the MUGA is designated as residential with significant portions already platted and/or developed. Most of the commercial and some of the industrial lands are located along SR-99, with the largest industrial pocket (Paine Field area) west of SR-99, most of which is within Everett’s unincorporated UGA. Edmonds has the largest unincorporated urban island, all of which is platted and developed as residential.

Snohomish County owns and maintains 1,003 acres of parkland within the unincorporated UGA. All but 3 percent of the acreage in the unincorporated UGA currently has access to water service. About 77 percent of the total acreage has access to sewer service. Water and sewer services are provided by cities and several water and sewer districts.

Snohomish County’s transportation LOS for arterials is E. The county identified two arterial units currently below its adopted service level. While remedial actions for these arterial segments are currently under study, building permits are being denied for proposed development that would impact these roadways.

Cities annexed 20,801 residents and 12,249 acres of land between 1993 and 2004. Annexations averaged about 1.7 persons per acre, less than half of the overall population density in the unincorporated UGA. Fifty-four of the 182 annexations occurring over the period had no population.

According to the *Snohomish County Tomorrow 2001 Growth Monitoring Report*, only four cities, Gold Bar, Arlington, Monroe, and Granite Falls, had annexed more than 50 percent of their UGA by April 2001. Slightly more than 12 percent of the Southwest

County MUGA, the largest area, had been annexed. Annexation activity has significantly diminished since 2000.

The desire to annex on the part of developers may be stronger in the parts of the county where sewer service is not available, about 25 percent of the unincorporated UGA. However, residents of those same areas may oppose annexation in order to discourage development.

# Urban Growth Areas 2004

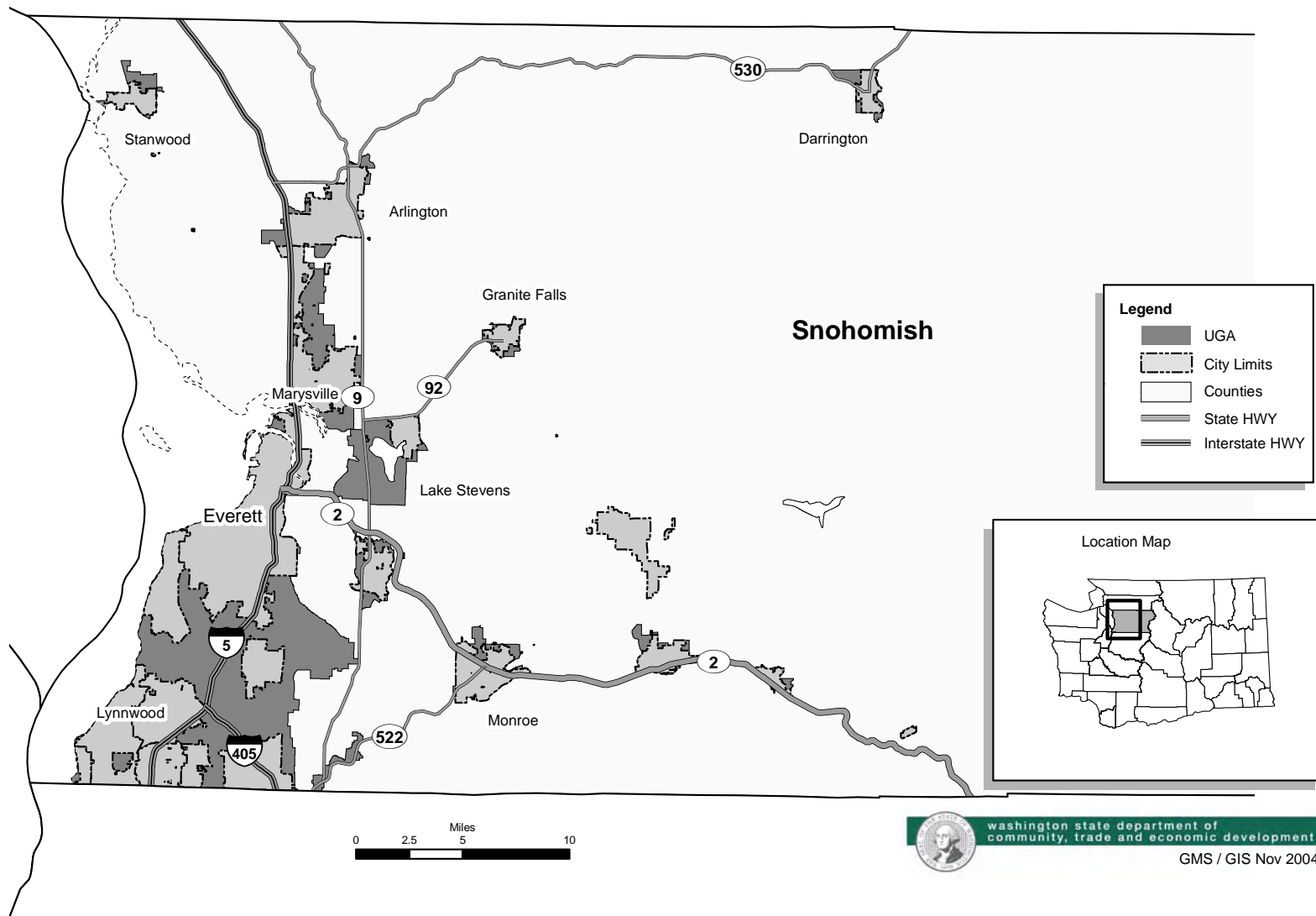


Figure 5. Map of Unincorporated UGA for Snohomish County

## Thurston County

The majority of Thurston County's urban growth area lies in the cities of Tumwater, Olympia, and Lacey, and their respective unincorporated UGAs, collectively referred to as North County. The four cities of Yelm, Rainier, Tenino, and Bucoda are not contiguous to the North County. Additionally, the unincorporated UGA of Grand Mound is surrounded by rural area. The total unincorporated UGA comprises 28,330 acres with an estimated 2004 population of 103,972. With the exception of Grand Mound, all of the unincorporated UGA in Thurston County is assigned to a specific city.

Approximately 75 percent of the unincorporated UGA is zoned for residential use. Commercial and industrial land constitutes a relatively small portion of the total. The total acreage identified by the county as constrained by critical areas or buffers represents between 30 and 50 percent of the unincorporated UGA.<sup>19</sup>

There are currently 350 acres of county parkland within the unincorporated UGA. Parcels currently connected to sanitary sewer represent only about 44 percent of the unincorporated UGA. As of 1997, parcels representing about 88 percent of the unincorporated UGA currently had public or community water connections. According to the *Thurston County Comprehensive Plan*, cities are typically responsible for extending water and sewer services to the unincorporated UGAs.

Thurston County cities annexed 1,164 residents and 5,358 acres of land between 1993 and 2004. Lands annexed in this period had an overall density of 0.2 residents per acre. Since the density of the unincorporated UGA is 3.7 residents per acre, it is evident that the cities annexed largely undeveloped or nonresidential lands. Almost half of the 60 annexations that occurred over this period had no residents. Eighty percent of the land annexed was annexed between 1993 and 1995. Yelm and Lacey accounted for 86 percent of the total acreage annexed since 1993.

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<sup>19</sup> For a more complete discussion of these constraints, see appendix C.6.

## Urban Growth Areas 2004

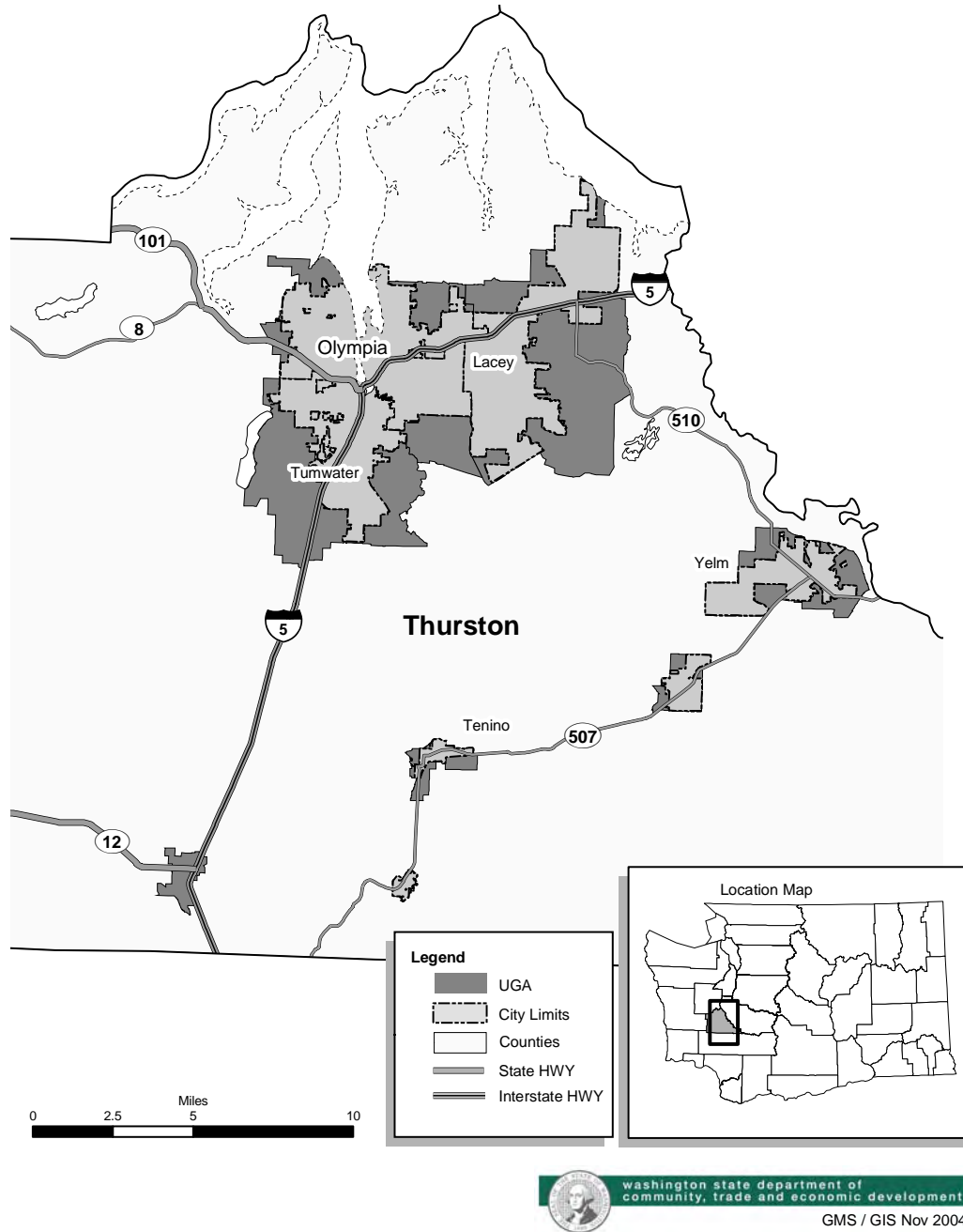


Figure 6. Map of Unincorporated UGA for Thurston County





## Results from County and City Surveys and Citizen Focus Groups

The budget proviso required surveys of the six counties, the cities within them, and citizens as follows:

- (c) Survey the counties to identify those obstacles which, in their experience, slow or prohibit annexation;
- (d) Survey the cities in each of the subject counties to identify obstacles, which in their experience, slow or prohibit annexation;
- (e) Survey residents of urban unincorporated areas in each of the subject counties to identify their attitudes towards annexation or incorporation....<sup>20</sup>

This section summarizes the results from the surveys of the counties and cities and a series of citizen focus groups. More detailed information about the survey, the survey responses, and the focus groups can be found in Appendices D through G.<sup>21</sup>

### Methods

#### Cities and Counties

ECONorthwest, as subcontractors to AHBL, worked with CTED and created a survey eliciting opinions from cities and counties about obstacles and potential solutions to annexation and incorporation. The survey was e-mailed to planning directors and county executives and council or commission chairs at Clark, King, Kitsap, Pierce, Snohomish, and Thurston counties. ECONorthwest also e-mailed the survey to planning directors and mayors of the 96 cities and towns within the six counties. ECONorthwest asked the counties and cities to each fill out one survey. Six counties and 52 cities and towns have returned a survey.

The survey asked the cities and counties to assess the severity of identified obstacles. The survey also asked the cities and counties' opinions about identified solutions, and whether the solutions would improve or worsen the existing situation.

#### Residents

On the advice of the consultants, AHBL and ECONorthwest, CTED agreed that the best method for surveying residents' attitudes regarding annexation and incorporation was to convene focus groups of citizens in each county who are interested in and knowledgeable of the issues. CTED, AHBL, and ECONorthwest held seven focus groups in the six counties (two in King County, one in each of the others) with residents of the

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<sup>20</sup> ESHB 2459, Section 33.

<sup>21</sup> Appendix D: Department of Community, Trade and Economic Development Survey of Obstacles & Strategies to Annexation shows the survey instrument sent to cities and counties. Appendix E – Obstacles and Strategies to Annexation: Perspective of Counties summarizes the counties' responses and shows the responses and comments to each survey question. Appendix F – Obstacles and Strategies to Annexation: Perspective of Cities summarizes the cities' responses and shows the responses and comments to each survey question. Appendix G – Obstacles and Strategies to Annexation: Perspective of Residents summarizes the discussions in the seven focus groups.

unincorporated UGAs. Staff at the six counties and the cities within them helped to identify residents who were knowledgeable and interested in annexation and incorporation issues. The focus groups were held over a three-week period, from September 14 through September 30, 2004, with 40 individuals attending the seven meetings.

### **Key Themes**

Cities, counties, and residents agree on many issues. They all agree that where residents believe they already receive adequate services, there is not an incentive to annex or incorporate. They all agree that the expected rise in taxes and cost of infrastructure upgrades to residents is a large obstacle to annexation and incorporation. The three groups agree that annexation is problematic where the revenue generated by the annexed area is inadequate to pay for expected increased costs to provide services. Cities, counties, and residents favor the idea of a state fund to support the upgrade of infrastructure. Cities and counties agree that the annexation process should be simplified for GMA-compliant subareas and contiguous areas with no resident opposition.

There was disagreement about the boundary review boards and their roles. The cities strongly support limiting the BRB's role. Some counties would like the BRB's role to be limited; other counties do not see that as a positive solution.

## Summary of Results

The following table summarizes opinions of counties, cities, and residents on key issues.

	Issues	Counties	Cities	*Residents
Objections of Citizens	Obstacles			
	Residents have misperceptions about consequences of annexation	A problem in 4; prevents annexation in 1	A moderate problem	A large problem
	Residents don't want higher densities	A problem for 4, prevents in 2	Prevents annexation in some, can be overcome in most	A large problem
	Residents expect taxes to rise with annexation	Prevents annexation in 5	1/3 say it prevents annexation, a problem for 1/2	A moderate problem
	Residents don't want to pay to upgrade infrastructure	Prevents annexation in 3: A problem for 3	1/3 say it prevents annexation, a problem for almost 1/2	A large problem
	Residents don't want to see regulations change	A problem for all	A moderate problem	A large problem
	Solutions			
	Restructure the public involvement process	3 say it would be an improvement	Half say it would make no change	A desirable solution
	Give residents (not just property owners) the ability to vote on annexation	1 says it would be an improvement; 4 say it would not	80% say it would make the existing situation worse	A desirable solution
Level of Service	Obstacles			
	Unincorporated residents already receive urban services from special districts	Prevents annexation in 2; a problem in 2	Prevents annexation in 50%; a problem in 1/3	Many residents see no reason to annex
	Annexing a large portion of a special district can hinder the district's ability to provide services	A problem for 4; prevents annexation in 2	A moderate problem	NM
	Residents believe they already have adequate services	A problem in 4; prevents annexation in 1	Prevents annexation in 1/3	Many residents see no reason to annex
	Solutions			
	Require cities and counties to plan jointly to ensure a smooth transfer of governance	4 say it would be an improvement	60% say it would be a large improvement	A desirable solution
	Put a moratorium on expanding UGAs unless there is an interlocal agreement committing to annexation with urban services	5 say it would be an improvement; 1 says it's not feasible	1/2 say it would be an improvement; 1/3 say it would be no improvement	Mixed depending upon whether or not they favored development
	Allow annexation only if there is planning to provide water, sewer, etc.	4 say it would be an improvement	77% say it would be an improvement	Support for better planning, not for more growth

Costs and Revenues	Obstacles			
	The revenue generated by the annexed area is inadequate to pay for expected increased costs to provide services to that area	Prevents annexation in 3; a problem in 3	60% say it prevents annexation; 26% say it is a problem	Cities don't want them if there's no increase in tax base
	There is inadequate financing to bring infrastructure in unincorporated areas up to urban standards	Prevents annexation in 2; a problem in 4	57% say it prevents annexation; 36% say it is a problem	Cities don't want them if there's no increase in tax base
	The county is reluctant to invest in infrastructure because that investment is lost with annexation, and there is no reimbursement	Prevents annexation in 2; a problem in 4	29% say it prevents annexation; 46% say it is a problem	Caught between city and county
	Impact fees collected in unincorporated areas have not fully mitigated impacts	Prevents annexation in 5; a problem in 1	26% say it prevents annexation; 56% say it is a problem	NM
	Solutions			
	Create a state fund to support the upgrade of infrastructure	5 say it would be an improvement	89% say it would be an improvement	Some support state contributing to solution
	Authorize a utility tax surcharge for a transition period in areas that cost more than they raise in taxes	4 say it would be an improvement	77% say it would be an improvement	NM
	Establish a capital improvement fund, generated in annexation area, for use during a transition period	5 say it would be an improvement	74% say it would be an improvement	NM
	Require counties to pay annexing cities for some costs to provide services to low-revenue areas	5 counties say it would make things worse, or is not feasible	91% say it would be an improvement	NM
Politics, Statutes, and Administration	Obstacles			
	State annexation statutes are not consistent with GMA goals	A problem in 4; not a problem in 2	1/3 say it prevents annexation; a problem in 1/3	NM
	The role of the BRB and its process	Prevents annexation in some; not a problem in others	40% say it prevents annexation	BRB not viewed as problem, not necessarily clear on their role
	Solutions			
	Restrict opportunities to invoke BRB jurisdiction	3 say it would be an improvement; 2 say it would make situation worse	3/4 say it would be an improvement	NM
	Remove the BRB in counties fully planning under GMA	2 say it would be an improvement; 2 say it would make situation worse	86% say it would be an improvement	Identified as a solution by some
	Raise the threshold for initiating referenda on annexation by ordinance for islands of unincorporated territory.	4 say it would be a large improvement	3/4 say it would be an improvement	NM
	Simplify annexation process for contiguous areas with no resident opposition or with GMA-compliant subarea	4 say it would be an improvement	97% say it would be an improvement	NM

\* NOTE: Residents were not asked the same questions as cities and counties. Responses of residents reflect comments made at the focus group regarding a related or broader issue (e.g., residents were not asked about specific sources of funding, but in general support broader funding from state).

NM = not mentioned

## **Annexation Study Advisory Committee**

The Annexation Study Advisory Committee was convened by CTED to provide input to the agency on approaches to gathering data and developing recommendations to the Legislature. It included representatives from state and local agencies involved in or directly affected by the annexation process as follows:<sup>22</sup> Counties and cities participating in the study (Snohomish, King, Pierce, Kitsap, Thurston, and Clark counties, and representatives from the cities within them).

- Association of Washington Cities
- Washington State Association of Counties
- Washington Public Ports Association
- Washington Association of Sewer and Water Districts
- Washington Fire Commissioners Association
- Washington Public Utility District Association
- Boundary Review Boards
- Municipal Research & Services Center of Washington
- Washington State Department of Revenue
- Washington State Office of Financial Management

The advisory committee met three times. A number of obstacles were identified and solutions proposed. As noted above, a number of these were incorporated into the surveys of the counties and cities. Given the advisory role of the committee and variety of stakeholder interests, the committee was not asked to come to consensus on any one obstacle or solution. The discussions of the advisory committee are outlined in Appendix I and incorporated into the discussion section of each of the recommendation sections below.

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<sup>22</sup> For a complete list of the advisory committee membership, please see the front of the report.



## **Recommendations to the Legislature**

CTED is directed to provide recommendations to the Legislature as follows:

- Propose possible changes to city and county taxing authority, which will serve to aid the transfer of annexation of remaining UGAs in a timely manner.
- Identify and discuss the need for funding of capital improvement projects needed to provide urban levels of service.
- Assess the role and statutory authority of the boundary review board and how altering their role and authority might facilitate annexation.
- Propose possible changes to growth management or annexation processes which will facilitate annexation.

### **CTED Recommendations**

The recommendations logically fall into two categories of local government revenues and expenditures (taxing authority and capital improvement needs) and the annexation process (role of the BRB, annexation statutes, and GMA statutes).

A variety of ideas were suggested by the Annexation Study Advisory Committee and others. Some of the approaches suggested go beyond the scope of this study, for example, proposals to create or expand state capital funding sources for all infrastructure within the UGA. However, in keeping with the scope of the study, recommendations are limited to approaches that directly address the barriers to annexation.

CTED had five months from the effective date of the proviso to the due date of December 1, 2004, to complete this study. An expanded scope for the study and amount of time to complete it would have allowed for a more thorough analysis and research of the options and recommendations discussed in the report.

### **Local Government Revenues and Expenditures**

#### **1. Issue Statement**

Local governments' inability to raise revenues and fund adequate infrastructure to provide urban levels of service is a barrier to annexation from the perspective of both counties and cities. Counties are reluctant to make the infrastructure investment if the property is going to be annexed by a city without the opportunity for reimbursement. Cities are reluctant to annex an area without urban services or with services that are not consistent with city adopted service standards. They often have insufficient financing to invest in infrastructure and increase city services to meet the needs of the annexed area, particularly if the area lacks an adequate tax base (e.g., little retail activity and low assessed values).

Special districts also raise concerns about the impacts of annexation, especially when only part of a district is annexed. Some special districts experience little or no impact as a result of annexation, such as port, school, and public utility districts. Other districts,



especially fire, water, and sewer districts, can be directly impacted by annexation when assets and taxpayers or ratepayers are assumed. The district can be left with insufficient revenue to cover liabilities and to serve the remaining area.

## **2. Background**

Washington local governments are fighting a losing battle to fulfill their responsibilities in today's changing world. Their powers fall short of their problems; their structures are often outdated and hard to change; most of all, their revenues are inadequate for the services they are expected or required to perform.<sup>23</sup>

Local governments are responsible for providing a wide array of basic governmental services. While counties and cities fully planning<sup>24</sup> under the GMA are required to plan to accommodate population growth for the next 20 years, including the infrastructure to support that growth, their ability to generate revenue and state funding sources have declined or not kept pace with the need.<sup>25</sup> Who bears the financial burden for infrastructure and service needs of these areas is at the heart of the issue, and is a barrier to annexation for counties, cities, and residents.

County and city governments have a variety of revenues to fund their general government services, including sales and property taxes, business and occupation (B&O) and public utility taxes,<sup>26</sup> permit fees, user fees, service charges, and impact fees. Property and sales taxes provide the majority of county tax revenue. Law and justice, health and human services, and transportation are the major expenditure categories of counties. Property, sales, and utility taxes provide most of the city tax revenues. Public services such as law and justice, transportation, and fire make up only a quarter of city expenditures.<sup>27</sup>

The state provides some funds through grants and loans for a variety of infrastructure needs.<sup>28</sup> Some funds are also available from the federal government.

Revenue issues since the Local Governance Study Commission's report in 1988 have only become more challenging for local governments. Despite the availability of a variety of funding sources, a local government infrastructure study conducted by CTED in 1999 identified a \$3.05 billion shortfall based on county and city comprehensive plan

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<sup>23</sup> See *The Quiet Crisis of Local Governance in Washington*, Final Report of the Washington State Local Governance Study Commission, Volume II, page 1 (1988).

<sup>24</sup> "Fully planning" counties and cities include 29 counties and the 218 cities within them that are mandated or chose to adopt comprehensive plans and development regulations pursuant to RCW 36.70A.040.

<sup>25</sup> CTED Infrastructure Study, 1999.

<sup>26</sup> Authority for business and occupation and public utility taxes is limited to cities.

<sup>27</sup> Source: Budget, Accounting, Revenue System (BARS) developed by the State Auditor for collecting data on local government revenues and expenditures. It has since been replaced by a newer version that is known as Local Government Fiscal Reporting System (LGFRS).

<sup>28</sup> See, for example, the Public Works Trust Fund (Chapter 43.155 RCW) and the Centennial Clean Water Account (Chapter 70.146 RCW).

capital facilities elements. State and federal funding sources have decreased due to declining revenues and other factors.

City, county, and transportation funding was significantly reduced by the Legislature's repeal of the motor vehicle excise tax (MVET).<sup>29</sup> In the 1999-2001 biennium, cities lost \$181.8 million and counties lost \$66.6 million due to elimination of the MVET. Local governments' ability to raise funds has also been restricted by the property tax levy initiative (I-747) that limits annual increases to 1 percent per year. In February 2002, the Washington State Department of Revenue estimated that there were \$1.4 billion less in local biennial revenues due to initiatives, tax reductions, an Internet tax moratorium, and exemptions. At that time, I-747 was expected to reduce local revenues by an additional \$230 million in the next three years. The impacts are cumulative.<sup>30</sup>

### **3. Discussion**

Annexations and incorporations have an impact on counties and cities and may have an impact upon special districts depending upon the type of district and circumstances.

Every annexation or incorporation will have some financial impact upon the county and the annexing or incorporating city. Upon annexation or incorporation, there is a shift of some of the sales tax and property tax revenue from the county to the city. The financial impacts on the respective jurisdictions will be positive or negative depending upon the resulting change in revenues and costs for each.

As noted in the survey of the six counties, the most common problem from the counties' perspective is that there is insufficient revenue to cover costs. All six counties agreed that annexation is difficult in areas where the cost to provide urban services is expected to be more than the revenue generated by the area. The responding counties agree that "cherry picking" by annexing jurisdictions (i.e., annexing properties that are good revenue sources and leaving low revenue and high service-cost properties for counties and special districts) prevents or is problematic for future annexations. One county reports that past annexation of high revenue properties has made remaining unincorporated areas difficult to annex, and these areas are unlikely to be annexed for some time. The counties report that escalating costs of providing regional services, such as criminal justice, create a significant burden on their financial resources.

Cities are concerned about how services and infrastructure are being provided in the unincorporated UGAs. Given the expectation that these areas will eventually be annexed or incorporated, cities report a concern with having to pay for infrastructure improvements because county development standards are different than the cities'. The cities annexing these areas anticipate the costs of infrastructure and/or service provision

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<sup>29</sup> Chapter 1, 1st Special Session, Laws of 2000. The Legislature repealed the MVET in response to a citizen's initiative (I-695) that repealed the MVET, but was overturned on appeal.

<sup>30</sup> "Information Presented to the Tax Structure Study Committee by the Washington State Department of Revenue," February 2002.

will be greater than the tax revenues generated. This issue also feeds concerns from residents about higher taxes after annexation.

Revenue increases for cities, and losses for counties, depend substantially upon the characteristics of the area to be annexed, including population, assessed valuation, and current and future land use patterns. In general, residential areas tend to have higher service costs than revenues generated, while commercial and industrial areas tend to be the opposite, making these land uses more appealing for annexation. In any case, annexation requires the city to ramp up its facilities, services, and personnel to meet adopted levels of service in an expanded service area.

The impact to counties can be positive if the annexed area requires a high level of services and does not generate a comparable amount of revenue. Conversely, an area generating considerable revenues – e.g., a shopping mall – may result in decreased revenues for a county upon annexation without necessarily reducing demand for services by the same amount. It is these discrepancies between revenues and cost of service provision that can drive which areas of the UGA are annexed.

The impact of annexations on special districts varies with the type of district. Some districts may go out of existence when all or parts of their territory are annexed, while others continue exercising jurisdiction only over areas not annexed, and still others are not affected by annexations.

Annexation of territory from a fire protection district automatically removes the territory from the district and transfers responsibility to the city.<sup>31</sup> If 60 percent or more of the assessed real property valuation of a fire district is annexed to a city, the city will own all of the district's assets after it pays the district cash, properties, or contracts for fire protection services in an amount equal to the percentage of the value of the real property in the entire district that remains outside the annexed area.<sup>32</sup> Also, a proportionate share of the liabilities of the fire district at the time of the annexation, equal to the percentage of the total value of real property of the district that is annexed, is transferred to the city. The remaining part of the district can vote to require the city to provide, upon payment by the district of a reasonable fee, fire protection services to the district.

If the territory annexed represents less than 60 percent but more than 5 percent of an entire fire district, the district maintains ownership of its assets. However, the district is to pay the annexing city (in cash, properties, or contracts for fire protection services) a percentage of the value of its assets (reduced by the district's liabilities) equal to the percentage of the value of the real property in the district that has been annexed into the city.<sup>33</sup> Despite this statutory scheme, annexation of part of a fire district's territory can impact its ability to continue to provide services to the remaining territory if a substantial portion of the tax base and assets have been annexed. Annexations often take the areas that generate the highest tax revenues and leave the fire district with a large rural area to

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<sup>31</sup> RCW 52.08.025.

<sup>32</sup> RCW 35.02.190.

<sup>33</sup> RCW 35.02.200 and 35A.14.400.

serve. They can often be left with all of the liabilities, including pension obligations, while losing revenues. Law Enforcement Officers' and Firefighters' Retirement System (LEOFF) Plan 1 requires that fire districts pay all employee medical costs, even into retirement and including nursing homes.

There are no automatic consequences when a city annexes an area that includes all or part of water and sewer districts. The city has the option upon annexation to allow the district to continue operations as before, or to assume jurisdiction over the district in whole or in part, depending upon the circumstances.<sup>34</sup> Thus, although not directly affected by annexation of part of their territory, water and sewer districts can subsequently lose ratepayers and assets if the annexing city later exercises its statutory authority to unilaterally assume control and ownership of those service areas within its corporate limits.<sup>35</sup> The water or sewer district has made investments in infrastructure that cannot be relocated. Districts do not object to cities assuming districts wholly within the city's boundaries, as long as the city complies with the requirements of RCW 35.92.070 to have a vote of the city's citizens prior to getting into the utility business, if it is not already in that business.

School and port district boundaries and functions are not affected by annexation in most cases. School district statutes specify several categories of annexations that may result in school district boundary changes, but they allow for a great deal of discretion in making any changes to reflect community needs. Where a port district has been established in an area less than an entire county, a city annexation may result in part of a city being included within the district. To correct a situation where some city property owners would be responsible for paying the port's property tax assessment and others would not, state law allows a port district to add territory.<sup>36</sup>

Similarly, public utility district (PUD) jurisdiction is generally not affected by a municipal annexation. When a PUD already includes both the annexing city and the territory to be annexed, no changes occur due to the annexation. However, if an annexation creates the need for a PUD boundary change, appropriate statutes can be invoked.<sup>37</sup>

Counties, cities, and special districts have a variety of ways of addressing the revenue and cost issues. The Interlocal Cooperation Act allows counties and cities to enter into a wide variety of agreements, but these are discretionary tools.<sup>38</sup>

Interlocal agreements can be used to share revenues between the city and county to mitigate the immediate financial impacts of annexation to the county. For example,<sup>39</sup> in 1990 prior to the GMA, Thurston County and the City of Lacey entered into an

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<sup>34</sup> Chapter 35.13A RCW.

<sup>35</sup> Subject to BRB approval of the separation of assets.

<sup>36</sup> RCW 53.04.080.

<sup>37</sup> RCW 54.32.010.

<sup>38</sup> Chapter 39.34 RCW.

<sup>39</sup> For more information on successful interlocal agreements, see Appendix J.

agreement to address issues related to annexations by the city. Under the agreement, the sales tax revenue that would have otherwise immediately accrued to the city upon annexation was subject to a gradual phase in over a five-year period, with the county receiving less and the city receiving more each year.

The county and city governments in Kitsap County entered into an agreement in 2001 that contains formulas for sharing some sales taxes, property taxes, and admissions taxes during a three-year period to reduce the impact of lost revenue resulting from annexations or from major land use actions or relocations of businesses near the boundaries of cities. The Kitsap County agreement also provides for reimbursement of the county for major infrastructure improvements made within a city's UGA in the event of annexation of the improvement within a specified period of time.

In an alternative method to revenue sharing, Snohomish County and the City of Arlington entered into an annexation agreement, wherein the city agreed to reimburse the county for capital improvements it made in the last five years that were paid for by bonds. A list of such improvements was included in the agreement, which also included an amortization schedule. If any land was annexed that contained these improvements within the appropriate timeframe, then the city owed the county the money specified. This was agreed to be necessary since it was acknowledged that the county issued these bonds with an expected revenue stream that was interrupted by the annexation, and since the improvements benefited the local residents, they should continue to help pay off the bonds.

If a city annexes an entire water or sewer district, it will probably make sense for the city to assume jurisdiction over the district. However, if the city annexes part of the district, the city can enter into an interlocal agreement with the district to continue providing services to city residents without impacting the service area of the district. The Washington Sewer and Water District Association reports that there is a trend to consolidate districts and provide services to multiple jurisdictions.

Participants in the Annexation Study Advisory Committee agreed that interlocal agreements are a good tool to address issues of revenues and costs for annexation. However, counties and cities participating in the advisory committee indicated that the solution to the funding issue requires more than an interlocal agreement to share existing revenue because local revenue sources are limited. It is their view that the main difficulty faced by both county and city governments is a lack of financial resources in general, and that the Legislature should address this issue with additional sources of funding for both capital and operating expenses (e.g., the costs to a city to ramp up services to serve a newly-annexed area). The committee also indicated that there should be a variety of funding tools available to counties and cities to address the issues unique to any one community. Special districts would also like funding tools to address the financial impacts of annexation.

#### **4. Options**

A variety of ideas were suggested by the Annexation Study Advisory Committee and others. Some of the approaches suggested go beyond the scope of this study. For example, some proposals included the creation or expansion of state capital funding sources for all infrastructure within the UGA, including both incorporated and unincorporated areas. However, in keeping with the scope of the study, recommendations for both state and local funding are limited to approaches that directly address the barriers to annexation in unincorporated UGAS.

##### ***Providing incentives for interlocal agreements or joint applications for state planning and infrastructure funding***

Interlocal agreements between cities, counties, and/or special districts can be used to address planning and finance issues. The advisory committee agreed that they should be encouraged and that financial incentives provide encouragement. Providing extra points in an application for state planning or capital funds for an interlocal agreement between an annexing city and the county and/or special districts could provide one incentive. In the absence of an interlocal agreement, extra points could be given for a joint application for funding between the annexing city and county and/or special district. An interlocal agreement or joint application could also be the basis for receiving additional state funds. This option would require some amendments to statutes governing state capital funding.

##### ***Pros:***

- Interlocal agreements are a proven effective tool to deal with planning and finance issues between local governments. They can address issues of revenue sharing, timing of transfer of governance, planning for consistent zoning and levels of urban services, and other issues that may be raised by a pending annexation.
- Interlocal agreements are a local solution that does not require intervention or oversight by state government. They are locally developed and designed to address the unique issues of a specific annexation.
- Additional funding from the state as an incentive would encourage the use of interlocal agreements.

##### ***Cons:***

- Interlocal agreements by themselves are not enough because they do not address the main issue of a lack of financial resources for local governments.

##### ***Reducing the lag time after annexation to collect property and sales tax revenues***

Timing of an annexation can have an impact on the cost of annexation to the city. The date of the annexation will determine when property taxes are received. The property tax can have a lag time of up to two years from the time of the annexation to receipt of the first revenues. The boundaries of a city for property tax purposes are the “officially established boundaries” that exist on March 1 of the year in which the property taxes are

levied.<sup>40</sup> A city can levy taxes in the current year for annexations officially completed by March 1, but must wait until the following year for annexations completed after March 1. Thus, cities may be required to begin providing services to the annexed area prior to receiving revenues. Conversely, King County reports that this lag can benefit an annexing city where the county road levy is greater than the city local levy.

The state statute could be revised to reduce the lag time for city collection of property and sales taxes after an annexation.

*Pros:*

- Reduction of the lag time would mitigate some of the financial impacts to an annexing city by matching revenues more closely with the provision of services to the newly annexed area.
- More than 80 percent of the cities surveyed and three of the counties surveyed agree that it is desirable to reduce the lag time between annexation and receipt of property tax and sale tax revenues.

*Cons:*

- The county assessor's office and OFM may not have sufficient resources to meet the timeline.
- Elimination of the lag time reduces revenues to counties more quickly; e.g., the "lag funds" may be an unintended source of "transition" funding for counties.
- Elimination of the lag time may also reduce revenues to fire districts more quickly. Property taxes are the sole source of revenues for fire districts. The more immediate loss of property tax revenues can exacerbate their fiscal problems.
- For those cities whose local levy rate is lower than the county road levy, elimination of the lag time may eliminate extra funding that could be used in support of city annexation transition costs.
- In the case of the local sales tax, it may not be possible to gain any significant amount of time, given the many changes that must be made to state accounting systems and the necessity to notify affected retailers.
- Any major reduction in the lag time would require a significant restructuring of the property tax system.
- The timing in RCW 82.14.055 is required by our state's participation in the Streamlined Sales Tax Project.
- For the taxes provided for in RCW 84.12 and 84.40, the existing timeline provides an opportunity for taxpayers to contest the valuation of their property. A shortened timeline could be subject to due process challenges.

***Potential sources of funding for annexations***

A variety of funding sources, both state and local, were discussed by the Annexation Study Advisory Committee. Funding for capital facilities and operating expenses were

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<sup>40</sup> RCW 84.09.030.

discussed. A brief summary of those funding source ideas is provided below, with more detailed descriptions following.

<b>Description</b>	<b>Source of Funds</b>	<b>Costs Covered</b>
<b>State funding</b>		
Fully planning GMA counties and cities could impose a 1% sales tax on new construction	State – credit against the state sales tax	Capital facilities
Earmark more of state REET for state infrastructure funds to local government	State real estate excise tax (REET)	Capital facilities
Divert state property tax to local government	State – diversion of property tax	Capital facilities and operating expenses
Allow the 7 more urban counties to divert 0.08 of the local sales/use tax	State – diversion of sales/use tax	Capital facilities
<b>Local sources of funding</b>		
Allow counties to impose a utility tax earmarked for potential annexation areas	Local – new tax on residents of an annexation area	Capital facilities and/or operating costs for a predetermined transition period
Allow cities to impose a utility tax surcharge in the annexation area at the time of annexation	Local – new tax on residents in an annexing area	Capital facilities and/or operating costs for a predetermined transition period
Allow creation of annexation capital facilities districts	Local – taxing district formed in the annexing area	Capital facilities

### ***State funding for annexations***

Five of the counties surveyed agree that state funding to support the upgrade of infrastructure in areas that cost more than they generate in tax revenue would improve the situation. Almost 90 percent of the cities surveyed report that a state fund to support the upgrade of infrastructure would be an improvement. One city noted that this would demonstrate state support in ensuring that urban service standards will be applied to development within the UGAs.

The Annexation Study Advisory Committee strongly supported the idea of state funding to match local investment in facilities and services needed for transition, and indicated that state funding should be provided for both capital and operating expenses (e.g., the costs to a city to ramp up services to serve a newly annexed area). Residents in some of



the focus groups agreed that the state should have a role in funding this aspect of the GMA.

*Pros:*

- A state fund for the capital and operating expenses of annexation or incorporation would support local implementation of the GMA.
- A state fund would help make the local governments affected financially whole, rather than creating more local options or shifts of funding between locals.
- State funding would provide an incentive for cities to annex.
- Even a small matching fund program could have an impact.

*Cons:*

- State funding for both capital and operating expenses is a limited resource with many competing interests. The current General Fund forecast for the 2005-2007 biennium is a \$1.7 billion shortfall. The state's extensive use of bonding has put the state's capital funding capacity close to the limit.
- Some cities and counties are not fully utilizing the tools at their disposal to fund infrastructure (e.g., impact fees, local improvement districts, property tax levies).

***Potential sources of state funding for annexations***

The advisory committee suggested a number of sources that could be used to provide state funding for annexations. Some of these could be used as a temporary pledge for transition while others may be long term or permanent to address capital facilities and operations needs. Some committee members were interested in keeping the use of these funds broad, e.g., infrastructure funding that could be used anywhere in the UGA. However, in keeping with the scope of the study, recommendations are limited to approaches that directly address the barriers to annexation. Each fund source is described in detail with the pros and cons.

**Authorizing a local 1 percent sales tax on new construction as a credit against the state sales tax**

The Land Use Study Commission (LUSC) proposed as part of its 1996 Annual Report (and recommended further study in its 1998 Final Report) that counties and cities fully planning under the GMA be authorized to impose a 1 percent sales tax on new construction,<sup>41</sup> as a credit against the state sales tax. Revenue generated by the tax could only be used to pay for capital facilities identified in the jurisdiction's capital facilities plan for the unincorporated UGA. The taxpayer would see no change in the total amount of tax paid. However, there would be a reduction in the total amount of revenue paid into the state General Fund.

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<sup>41</sup> See *Land Use Study Commission Final Report*, page 79 (December 1998).

*Pros:*

- Under Initiative 601, if the state takes in more revenue than it can spend, the excess revenue is placed into a reserve fund. Some of those funds could be used for capital improvements to address the impacts of growth to benefit the entire state.
- This approach keeps funds where they are most needed because the amount of tax generated is tied to development activity. This is not a tax increase, but rather a diversion of an existing tax from the state to local government.

*Cons:*

- The state's revenue picture has changed considerably since the LUSC first proposed this approach in 1997. With the state's economic downturn and slow recovery, the revenue surplus on which this proposal was premised has evaporated. The November 2004 forecast is for a \$1.7 billion shortfall in revenues. The current biennial budget assumes \$641 million in reserve as of the September revenue forecast. These changed circumstances show one of the difficulties this type of solution presents.
- This would take funding away from other programs currently financed by the state General Fund, such as human services, 52.3 percent; K-12 school support, 33.7 percent; higher education, 8.6 percent, etc.

**Earmarking more of the state's REET for state infrastructure funds to locals**

Most of the state's REET goes to the state General Fund with a small portion earmarked for grants and loans for local infrastructure through the Public Works Trust Fund. More of the REET could be earmarked for this or similar capital programs inside the unincorporated UGA. This option would require the Legislature to decide the appropriate amount of such funding and then adopt an amendment to Chapter 82.45 RCW.

*Pros:*

- The state has authority for a broader range of uses for REET than local government.
- This approach ties funding from development activity to the infrastructure needed to support that development.
- This is not a tax increase, but rather a diversion of an existing tax from the state to local government.

*Cons:*

- This would take funding away from other programs currently financed by the state General Fund such as human services, 52.3 percent; K-12 school support, 33.7 percent; higher education, 8.6 percent, etc.
- State funding is a limited resource with many competing interests. The current General Fund forecast for the 2005-2007 biennium is a \$1.7 billion shortfall.
- This would not address existing infrastructure needs or ramping up of operating funds for increased service demands.

## **Diverting a portion of the state property tax**

Some portion of the state property tax could be diverted to local governments for capital facilities and operating expenses.

### *Pros:*

- This approach ties funding from property to the infrastructure needed to support property development. This is not a tax increase for residents, but only a diversion of an existing tax from the state to local government.

### *Cons:*

- This approach would require a statutory (and possibly a constitutional) change to divert state levy receipts to a use other than support of K-12 education. Although the receipts go to the General Fund, there is a long history and tradition that these funds are required to meet the state's obligation to fund basic education. A statutory change that decreased funding for K-12 (e.g., by earmarking a portion of the state levy for another purpose) could result in lawsuits such as that brought in the mid-1970s. In that suit, the Washington Supreme Court determined that the state constitution required the state to provide greater funding for basic education and to not force local school districts to rely so much on special levies.<sup>42</sup>
- This would divert existing revenues from the state. State funding is a limited resource with many competing interests. The current General Fund forecast for the 2005-2007 biennium is a \$1.7 billion shortfall.
- This would take funding away from other programs currently financed by the state General Fund such as human services, 52.3 percent; K-12 school support, 33.7 percent; higher education, 8.6 percent, etc.

## **Diverting the 0.08 local sales/use tax in “urban” counties for infrastructure funding**

The 32 rural counties are authorized to impose a local sales/use tax of up to 0.08 percent that is credited against the state 6.5 percent tax. All 32 eligible counties are currently levying the tax. The tax may only be used for financing of public facilities for economic development purposes. The list of eligible counties could be expanded to include the remaining seven urban counties (Snohomish, King, Pierce, Kitsap, Thurston, Clark, and Spokane).

The funds in the urban counties could be used to address transition costs and infrastructure needs in the unincorporated portions of the UGAs. The funds would be for transitional costs and would have a sunset date consistent with anticipated timelines for annexation. The funds would be available consistent with a plan that identifies capital facilities and operating services needs for transition and a timeline for putting the annexation vote on the ballot. The funds could be used by a county or city. For example, the county could use the funds for a project consistent with the plan. If the project is not finished at the time of annexation, the city could use the remaining funds to complete it.

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<sup>42</sup> *Seattle School District No. 1 of King County v. State of Washington*, 90 Wn. 2d 476, 585 P.2d 71 (1978).

If the annexation does not occur and the funds are not spent within the stated timeline, the money would revert to the state. This option would require an amendment to RCW 82.14.370.

*Pros:*

- Directing state funds to infrastructure in unincorporated UGAs would support local implementation of the GMA.
- The diversion of the 0.08 local sales/use tax could generate up to \$57 million annually for infrastructure and operating costs in those seven counties.<sup>43</sup>

*Cons:*

- The diversion is currently limited to infrastructure for economic development. It does not provide for operating expenses or infrastructure for other types of development that may not generate a net increase in tax revenues (i.e., residential).
- There may be unintended consequences, such as enabling incorporations by subsidizing areas that would not otherwise have sufficient revenues to operate.
- This would divert existing revenues from the state. State funding is a limited resource with many competing interests. The current General Fund forecast for the 2005-2007 biennium is a \$1.7 billion shortfall.
- This would take funding away from other programs currently financed by the state general fund such as human services, 52.3 percent; K-12 school support, 33.7 percent; higher education, 8.6 percent, etc.

***Potential local sources of funding for annexation***

The Annexation Study Advisory Committee also discussed options for local governments to fund annexations. Again, each is described and the pros and cons discussed separately.

**Authorizing a county utility tax**

Counties could be authorized to collect a utility tax that would be earmarked for potential annexation areas with tax revenue insufficient to cover costs. The authority would parallel current councilmanic utility tax authority that cities now have. The funds would go into escrow and be made available to the city at the time of annexation for capital facilities and operating expenses. The charges could be collected in the annexation area during a predetermined transition period that would cover a set amount of time before and after annexation or incorporation. Counties suggested a time period of up to three to five years. Cities are interested in up to 12 years to accumulate sufficient funding to ramp up services. Under this concept, if a city does not annex within the time period set, the county could expend the funds in the annexation area for services.

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<sup>43</sup> Washington State Department of Revenue data as compiled by the Association of Washington Cities.

*Pros:*

- The utility tax would be a local option to ensure that those who will benefit from increased services help pay for them.
- The tax would be a source of funding in areas with little tax revenue.
- The tax would be of limited duration and would create equity in the “before” and “after” annexation picture.

*Cons:*

- Counties may not have the political will to impose a utility tax on citizens.
- Imposition of a tax on a portion of the ratepayers in a utility district could lead to lawsuits over discriminatory rates.
- The public is less likely to support an annexation that will require additional taxes.

**Authorizing a city utility tax surcharge**

Cities could be authorized to temporarily collect a utility tax surcharge in an annexation area for capital or operating expenses to ramp up for services in the annexation area. The surcharge could be applied to any utilities for which the city can currently impose a charge, including sewer, water, electricity, cable, and stormwater utilities. The surcharge would only be allowed where the city could demonstrate that the projected cost of providing municipal services in the proposed annexation area would exceed the projected revenues the city would receive from the area during the transition period. The utility surcharge would be imposed through a vote of the citizens in the annexing area in conjunction with a vote on annexation and assumption of debt. The surcharge would be in effect for a limited period of time to cover the cost of increasing services (e.g., ten years). This option may require amendments to Chapters 35.13 and 35A.14 RCW.

*Pros:*

- The utility tax would be a local option to ensure that those who will benefit from increased services help pay for them.
- The tax would be a source of funding in areas with tax revenue insufficient to cover costs.
- The surcharge would be imposed for a limited period of time.

*Cons:*

- Cities may not have the political will to impose a utility tax on citizens.
- If turned down by voters, cities are likely to decline annexation.
- Imposition of a tax on a portion of the ratepayers in a utility district could lead to lawsuits over discriminatory rates.
- The public is less likely to support an annexation that will require that additional taxes be imposed.

## **Authorizing creation of a capital facilities district**

Annexing cities and/or counties could be authorized to create an annexation capital facilities district in a potential annexation area as a municipal corporation and independent taxing unit to facilitate annexation. The annexation capital facilities district would be created for the purpose of carrying out all or a part of an annexation capital facilities plan submitted by an annexing city and approved by the voters. The district board would be appointed by the annexing city and the county. The district could dissolve upon discharge of all bond and/or contractual obligations. It would automatically dissolve after all of the territory was annexed. This option would require legislation to authorize the creation of capital facilities districts for the purposes of annexation.

### *Pros:*

- The district would be formed solely for the benefit of citizens who would pay for capital facilities and services that they receive.
- Citizens would have a vote on whether to form the district.
- The capital facilities plan would be part of the city's comprehensive land use plan, ensuring consistency with the city plan and adopted levels of service.
- The district could be of limited duration.

### *Cons:*

- Yet another form of local government would be created that may compete for tax revenues or ability to provide services with other forms of local government, such as special purpose districts.
- If turned down by voters, cities are likely to decline annexation.
- Property owners in the annexation area are less likely to support an annexation that will impose taxes upon them not being levied on others in the same jurisdiction.

## **5. Recommendations for Local Government Revenues and Expenditures**

Two key themes emerged from the surveys, focus groups, and discussions of the advisory committee that underlie all of the recommendations discussed. There was clear support for state funding to assist with the annexation costs of transition from counties and special districts to cities. There was also clear recognition of the importance of interlocal cooperation and coordination and the utility of joint planning and interlocal agreements to facilitate annexations. Where state funding or others incentives are provided for joint planning and/or interlocal agreements, some minimum standard for what elements or issues are addressed by the participating local governments in the plan or agreement should be considered.

A variety of tools should be available to local governments to finance the transfer of governance for annexations. The array of tools should include funding from both state and local sources to demonstrate the state and local governments' partnership and commitment to planning for growth. Some of the approaches suggested go beyond the scope of this study. For example, some proposals included the creation or expansion of

state capital funding sources for all infrastructure within the UGA, including both incorporated and unincorporated areas. However, in keeping with the scope of the study, recommendations for both state and local funding are limited to approaches that directly address the barriers to annexation in unincorporated UGAs.

An expanded scope and amount of time for the study would have allowed for a more thorough analysis of all the tools discussed above. Tools that deserve further study and consideration by the Legislature include:

- Providing incentives for interlocal agreements or joint applications for state planning and infrastructure funding.
- Reducing the lag time after annexation to collect property and sales tax revenues.
- Creating a state fund for annexations – possible sources of funding to consider include:
  - Authorizing a local 1 percent sales tax on new construction credited against the state sales tax.
  - Earmarking more of the state’s real estate excise tax for state infrastructure funds to locals.
  - Diverting a portion of the state property tax.
  - Diverting the 0.08 local sales/use tax in “urban” counties for infrastructure funding in the unincorporated UGA.
- Creating more local tools for funding annexations:
  - Authorizing counties to impose a utility tax in unincorporated UGAs, revenues from which would be largely dedicated to supporting annexation costs of cities.
  - Authorizing cities to impose a utility tax surcharge.
  - Authorizing cities and/or counties to create an annexing capital facilities district.

The Office of Financial Management has been charged by the Legislature in the Supplemental Budget for fiscal year 2005 (ESHB 2459, Section 118) to:

[S]tudy land use and local government finance and make recommendations on the impact that current trends in the city and county revenue sources and expenditures may have on land use decisions made by counties and cities and meeting goals of the growth management act. Among the areas to be studied:

- (a) Local government revenue sources and expenditures over the past decade;
- (b) The relationship between local government finances and land use decisions including commercial, residential, and industrial development;
- (c) Cooperation or competition of adjoining jurisdictions over land use and annexation;
- (d) The relationship new development has to existing commercial and residential areas and its effect on a community’s infrastructure and quality of life.

The study shall include recommendations for state and local government fiscal partnerships that encourage cooperation among jurisdictions to meet the goals of the growth management act, and how the state and local government fiscal structure can better meet the goals of the growth management act.

Funding for the OFM study expires on June 30, 2005, six months after the CTED annexation study. CTED recommends that the OFM study include an analysis of the tools listed above for potential sources of funding for annexations.

## **Annexation Process – Growth Management, Annexation, and Boundary Review Boards**

### **1. Issue Statement**

The Growth Management Act, as passed by the Legislature and signed into law by the Governor in 1990, included the finding that:

[U]ncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state. It is in the public interest that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning.<sup>44</sup>

Inherent conflict exists between some of the goals of GMA for coordination and consistency and the institutions and processes needed to implement the GMA that were enacted prior to 1990. These include the annexation process and the role of the BRBs. Also, the GMA and annexation statutes do not fully resolve all issues regarding the consequences of annexation on special districts.

There have been some efforts to more closely align GMA requirements with the annexation and BRB processes. There remain some opportunities to increase consistency among the GMA, the annexation process, and the role of the BRBs that the Legislature has directed CTED to examine.

### **2. Background**

Washington has a complex governance structure that includes a variety of state and local governments with different authorities and responsibilities. At the local government level, cities' decisions to annex territory can have the effect of reducing the service area of certain special districts, with a resulting decrease in tax revenues for those districts. This can lead to conflicts over revenues and service provision, particularly when the local government with jurisdiction receives financial benefits through additional tax revenue, as discussed in the Local Revenues and Expenditures section of this study.

Washington's annexation statutes were enacted to provide for the orderly transition of government from a county to a city.<sup>45</sup> There are currently eight methods of annexation

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<sup>44</sup> RCW 36.70A.010.

<sup>45</sup> Chapters 35.13 and 35A.14 RCW.



available to code and non-code cities, including annexation by petition and by election.<sup>46</sup> This includes the newly created “double-petition” method<sup>47</sup> that was a legislative response to the Washington Supreme Court decision that initially overturned the petition method. The court later reversed that decision and found the petition method to be constitutional.<sup>48</sup>

In 1967, the Legislature created the BRBs to approve, modify and approve, or deny proposed changes in the boundaries of special purpose districts and cities.<sup>49</sup> The BRBs were created to add some state control to the proliferation of special districts and city annexations resulting from population growth.

The legislature finds that in metropolitan areas of this state, experiencing heavy population growth, increased problems arise from rapid proliferation of municipalities and haphazard extension of and competition to extend municipal boundaries. These problems affect adversely the quality and quantity and cost of municipal services furnished, the financial integrity of certain municipalities, the consistency of local regulations, and many other incidents of local government. Further, the competition among municipalities for unincorporated territory and the disorganizing effect thereof on land use, the preservation of property values and the desired objective of a consistent comprehensive land use plan for populated areas, makes it appropriate that the legislature provide a method of guiding and controlling the creation and growth of municipalities in metropolitan areas so that such problems may be avoided and that residents and businesses in those areas may rely on the logical growth of local government affecting them.<sup>50</sup>

Thus, the BRB statute laid a basis for coordination of planning and accommodation of population growth. There are 17 counties in Washington with BRBs: Benton, Clark, Cowlitz, Douglas, Grant, King, Kitsap, Kittitas, Pierce, Skagit, Skamania, Snohomish, Spokane, Thurston, Walla Walla, Whatcom, and Yakima.

The boards are quasi-judicial, administrative bodies empowered to make decisions on such issues as incorporations, annexations, mergers, disincorporations, etc., by cities, towns, and special purpose districts. The boards must base their decisions on specific statutory factors and objectives and their decisions must be consistent with the GMA.

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<sup>46</sup> See the *Annexation Handbook*, Municipal Research & Services Center of Washington, Chapters Six and Seven (November 2004), for a description of the eight methods.

<sup>47</sup> The “double-petition” method was enacted in 2003. See RCW 35.13.410 and 35A.14.420.

<sup>48</sup> In *Grant County Fire Protection District No. 5 v. City of Moses Lake*, 145 Wn.2d 702, 42 P.3d 394 (2002), the Washington Supreme Court ruled that “because the petition method of annexation grants owners of highly valued property a privilege not afforded to other similarly situated parties, we hold that it violates article I, section 12” of the Washington State Constitution. The court later reversed its ruling, reinstating the petition method, in *Grant County Fire Protection District No. 5 v. Moses Lake*, 150 Wn.2d 791, 83 P.3d 419 (2004). The court stated, “There is settled law dictating that the statutory right to petition for annexation is not a privilege for purposes of article I, section 12.”

<sup>49</sup> Chapter 36.93 RCW.

<sup>50</sup> RCW 36.93.010.

### 3. Discussion

Washington's local government structure has been the subject of several studies over the years, including a report by the Washington State Local Governance Study Commission in January 1988. In addition to issues of revenues and expenditures noted above, the Local Governance Study Commission stated:

Frequently there are too many local governments, particularly in densely populated areas outside of cities, and too little coordination among them in coping with problems that often cross jurisdiction lines. Citizens feel uninvolved and unrepresented in the cumbersome processes through which local governments are obliged to operate.<sup>51</sup>

Much has changed since that report was written to address these problems. Most significantly, the GMA was enacted with its requirements for coordination among local governments, early and continuous citizen participation, and designation of UGAs outside of which annexations cannot occur. Yet, many of the concerns and problems are still being raised. These continuing concerns were noted in the Land Use Study Commission's Final Report in December 1998.<sup>52</sup> More recently, they are reflected in the surveys of counties and cities, the focus groups with citizens, and the discussions of the Annexation Study Advisory Committee.

#### *Role of the boundary review boards*

City annexations have changed since 1990 with the adoption of the GMA. In the 29 counties fully planning under the GMA, annexations and incorporations are limited to designated UGAs. The GMA also provides that, when a county and the cities and towns within the county have adopted a comprehensive plan and consistent development regulations pursuant to the GMA, the county may disband the BRB.<sup>53</sup> To date, only Clallam, Chelan, and Franklin counties have disbanded their BRBs.

Citizens and special purpose districts and the BRBs see the role of the BRBs as an important part of the annexation process, providing an impartial forum for addressing the orderly transfer of governance and provision of services. BRB members believe that they serve an important public education function, especially given the limitations on the ability of cities to advocate for a proposed annexation subject to voter approval. BRBs serve as a repository for legal descriptions and maps for city and special purpose district boundaries. They provide information and educate citizens about the costs and benefits of annexation when there is a lack of trust of an annexing city. The BRBs can also facilitate joint planning and interlocal agreements by cities, counties, and special purpose districts.

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<sup>51</sup> See *The Quiet Crisis of Local Governance in Washington*, Final Report of the Washington State Local Governance Study Commission, Volume II, page 1 (1988).

<sup>52</sup> See *Land Use Study Commission Final Report*, pages 25-26 (January 1998).

<sup>53</sup> RCW 36.93.230.

The BRBs are seen by others to be an added layer of process that is no longer needed since adoption of the GMA. Most of the cities surveyed agreed that state annexation statutes are not consistent with GMA goals. Most of the cities reported problems with the role of the BRB: it is inconsistent with GMA goals, it adds costs and uncertainty, the threshold for invoking BRB jurisdiction is too low, and too many parties can request BRB review. Survey respondents proposed narrowing or redefining the scope of the BRB.

The role of the BRBs presents problems for some of the counties surveyed. The BRB process can add cost and uncertainty to annexations; two counties stated that it prevents annexation. The lack of agreement about these obstacles makes it difficult to generalize about the six counties' perspectives.

Some advisory committee members indicated that the role of the BRBs has not been clear since adoption of the GMA. Others indicated that the BRB criteria do not match GMA requirements. There was a general consensus that the GMA and annexation statutes need more consistency. Two specific inconsistencies that were proposed for consideration were application of the GMA goals by a BRB to annexations,<sup>54</sup> and making the "urban in character" objective consistent with designated UGAs.<sup>55</sup> There was also discussion about the application of the "abnormally irregular boundaries" objective.

About 85 percent of the cities surveyed think the BRB should be removed from the annexation process in counties that are fully planning under GMA, and criteria for exclusion from BRB review should be established. The counties surveyed do not agree about the consequences of removing the BRB from the annexation process in counties that are fully planning under the GMA: opinions range from it making a small improvement, to no change, to making the situation worse.

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<sup>54</sup> RCW 36.93.157 provides that the decisions of a BRB located in a county fully planning under the GMA must be consistent with RCW 36.70A.020 (GMA goals), 36.70A.110 (UGA designation), and 36.70A.210 (county-wide planning policies).

<sup>55</sup> RCW 36.93.180 states that the:

Decisions of the boundary review board shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;
- (2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;
- (3) Creation and preservation of logical service areas;
- (4) Prevention of abnormally irregular boundaries;
- (5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;
- (6) Dissolution of inactive special purpose districts;
- (7) Adjustment of impractical boundaries;
- (8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and
- (9) Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority.

## *Annexation statutes*

The Land Use Study Commission (LUSC) looked at the annexation statutes and made recommendations both in 1996 and 1997. In 1996, the LUSC recommended that:

The procedure for annexing within urban growth areas should be eased under certain circumstances. The procedure governing annexation should be consistent for all classes of cities. The boundary review boards should consider interlocal agreements and adopted GMA comprehensive plans in their review of proposed annexations.<sup>56</sup>

In response to the LUSC's recommendations, the Legislature adopted, and the Governor signed into law, amendments to the BRB statute requiring the boards to consider comprehensive plans and development regulations adopted under the GMA, applicable service agreements, and applicable interlocal annexation agreements between a county and its cities.<sup>57</sup>

The LUSC provided more detailed recommendations in its 1997 annual report to:<sup>58</sup>

1. "Fix" Recommendations from the 1996 Report –
  - (a) 60 percent petition-method annexation in non-code GMA-planning cities; and
  - (b) Incorporate a citizen's referendum process in non-code cities for those choosing to use the "island" annexation provisions added in the 1997 session.
2. Remove the June 30, 1994, date by which an "island" must have been created to be eligible for "island" annexation procedures enacted by the 1997 Legislature.

Almost all of the cities surveyed agreed that annexation and incorporation of areas with a GMA-compliant subarea should be simplified. About three-quarters agreed that land should not be added to a UGA unless a jurisdiction is willing to annex it. Cities agreed that raising the threshold for initiating referenda on annexation by ordinance for islands would greatly improve the situation. A large majority agreed that small and large annexations should have different methods, and contiguous areas with no resident opposition should have a simplified annexation process.

Five of the counties surveyed agree that the annexation or incorporation process for areas with a GMA-compliant subarea plan for urban services should be simplified, but one county believes the potential solution would make the situation worse. Four counties report that raising the threshold for initiating referenda on annexation by ordinance for islands would greatly improve the situation, but one county reports that it is not a feasible solution and one reports that it would not have any impact. Jointly planning annexations

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<sup>56</sup> *Land Use Study Commission 1996 Annual Report*, Chapter VI. Issue Papers, C. Incentives, 1. Annexations, n. pag. (January 1997).

<sup>57</sup> RCW 36.93.170(1) (ESB 6094, 1997 Legislative Session).

<sup>58</sup> *Land Use Study Commission 1997 Annual Report*, IV. 1997 Workplan and Recommendations, C. Annexations and Boundary Review Boards.

with cities and special districts would offer some improvement, according to four counties, but one county reports that it is not a feasible solution and another reports that it would not have any impact.

Some of the special purpose districts remain strongly opposed to removing any provisions for a vote of the citizens. Often, citizens identify with their local district officials. Those special purpose districts believe that another body of elected officials should not be able to assume a district's service area without a vote of the citizens.

The Annexation Study Advisory Committee discussion centered around providing incentives for joint planning and interlocal agreements. There was general agreement that the BRB statute and the GMA need to be more consistent. There were also a number of ideas presented regarding streamlining of the process where joint planning and interlocal agreements were in place.

#### **4. Options**

Any option to address the barriers to annexation should provide incentives for coordination through joint planning and interlocal agreements. Annexation is appropriate when urban services are planned consistent with a community's vision and can be provided concurrent with development. Joint planning in UGAs ensures that citizens are engaged and can provide input into the process. Planning with citizen involvement allows an annexing city to build a relationship with the citizens.

##### **Eliminate the boundary review boards**

The role of the BRBs could be eliminated entirely in those jurisdictions that are fully planning under the GMA. These counties now have the option of disbanding the BRB when a county and the cities and towns within the county have adopted a comprehensive plan and consistent development regulations pursuant to the GMA.<sup>59</sup> One proposal discussed by the advisory committee would automatically make all UGAs designated under the GMA part of a city, effectively eliminating the role of the BRB except for incorporations and annexations by special purpose districts.

The underlying assumption for this option is that counties, in consultation with cities, have determined what areas are already urbanized and are served or are planned to be served by urban services in the next 20 years. This proposal would require that the counties assign all UGAs to appropriate cities for annexation – the “potential annexation area” concept used by King County for some of the UGA in cooperation with cities. This would require amendments to the BRB's jurisdiction, and to the county-wide planning policy and UGA designation requirements in the GMA.

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<sup>59</sup> RCW 36.93.230.

*Pros:*

- Elimination of review by the BRBs would streamline the process and support the presumption that local plans have adequately planned for funding for capital facilities at urban levels of service and that such funding is available.
- If annexation of UGAs is automatic, counties will be more cautious in designating UGAs that are larger than what is needed to accommodate projected population growth.

*Cons:*

- Most counties have not assigned all potential annexation areas to the cities.
- Automatic annexations would not provide an incentive for coordinated planning and interlocal agreements for those UGAs that have already been designated by counties.
- Cities may not be prepared to take on assigned potential annexation areas. This would not address the issue of the lack of funding for cities to ramp up services for a newly annexed area.
- Counties and special districts may not be prepared to lose the revenue from all designated UGAs at one time.
- Counties would have to take on the responsibility of serving as the repository for legal descriptions and maps for city and special purpose district boundaries.
- Annexations would occur without fully evaluating the impacts to special purpose districts.
- This would eliminate the ability of counties or residents to effectively challenge partial annexation of remaining UGAs by cities.

**Allow annexation upon interlocal agreement without boundary review board review**

Another proposal would eliminate oversight by the BRB for annexations where an interlocal agreement regarding the annexation area has been reached by the county, a city, and any affected special districts.<sup>60</sup> The city or town could still be required to file a notice of intention with the BRB for record-keeping purposes.

*Pros:*

- Provides an incentive for counties and cities to engage in interlocal agreements and joint planning for the annexation area.
- Transition issues such as revenues and costs could be addressed in the interlocal agreement.

*Cons:*

- Assumption issues of special purpose districts may not be addressed in the interlocal agreement, especially if there is no oversight by the BRB.
- This is inconsistent with the desire of many citizens to vote on an annexation.

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<sup>60</sup> See SB 6303 and HB 2593 from the 2004 Legislative Session.

## **Revise the boundary review board statute to be more consistent with GMA requirements**

Two inconsistencies were put on the table for consideration by the advisory committee: (1) the BRB's ability to apply the goals and requirements of the GMA under RCW 36.93.157; and (2) the necessity for the BRB to consider whether an area is "urban in character" pursuant to the objective in RCW 36.93.180(8) when it has already been designated by the county as a UGA under the GMA. The advisory committee also discussed issues regarding application of the "prevention of abnormally irregular boundaries" objective in RCW 36.93.180(4).

### **1. Revise the applicability of the goals and requirements of the GMA**

The BRB's role could be limited if there were a joint plan between a county and city and an interlocal agreement between the county, city, and special districts in place. RCW 36.93.157 could be revised to provide that the BRB must determine the consistency of the annexation with RCW 36.70A.020 (GMA goals), 36.70A.110 (designation of the UGA), and 36.70A.210 (county-wide planning policies), except when the county and city have jointly adopted a plan for the area and there is an interlocal agreement that includes any special districts. If joint planning has occurred and an interlocal agreement adopted, the BRB must determine the annexation is consistent with the requirements in RCW 36.70A.020, 110 and 210.

#### *Pros:*

- This provides an incentive for counties and cities to engage in joint planning and interlocal agreements for annexation areas.
- Joint planning provides an opportunity for the city and county to engage and educate citizens in a potential annexation area.
- BRB jurisdiction could still be invoked if joint planning has not occurred.
- If the interlocal agreement were to include special purpose districts, the assumption issue would be addressed.

#### *Cons:*

- There may be concerns if the county and city failed to adequately involve citizens in the planning process.

### **2. Revise the applicability of the "urban in character" objective**

The "urban in character" objective in RCW 36.93.180(8) could be eliminated, or determined to have been met, in counties fully planning under the GMA because cities are not allowed to annex outside of designated UGAs in those counties. The "urban in character" objective would remain applicable in counties not fully planning under the GMA because no UGA has been designated consistent with GMA requirements.

*Pros:*

- The “urban in character” objective is redundant when a county is required to designate urban areas where growth is planned to occur at urban levels and with urban services consistent with the requirements of RCW 36.70A.110.<sup>61</sup>
- Denial of an annexation based on the “urban in character” objective in a UGA would constitute a barrier and be inconsistent with the expectation that UGAs will be annexed.

*Cons:*

- Not all areas of the UGA are ready for annexation. Some areas may be without urban services and the city does not have the capacity to provide services at the time of annexation.

**3. More clearly define the applicability of the “prevention of abnormally irregular boundaries” objective in RCW 36.93.180(4), or eliminate the objective where joint planning has occurred**

The “prevention of abnormally irregular boundaries” objective in RCW 36.93.180(4) is viewed by some as vague and difficult for the BRBs to apply consistently. Some cities were concerned that a single objective could be used to deny an annexation. In some cases, it is difficult to avoid irregular boundaries due the configuration of a road network or tax parcels. The applicability of the objective could be clarified, or it could be eliminated where joint planning has occurred.

*Pros:*

- The “abnormally irregular boundaries” objective is no longer appropriate in fully planning counties where UGAs have been designated in consultation with cities and good planning has occurred.
- The objective is not needed to ensure efficient provision of services as that objective is addressed in RCW 36.93.180(3), which requires “creation and preservation of logical service areas.”
- The objective is too vague to be applied consistently.
- The objective can be used to deny an annexation when all the other objectives have been met.

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<sup>61</sup> RCW 36.70A.110(3) specifically requires that:

Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas.



*Cons:*

- There may be instances where the boundaries for an annexation within a UGA are irregular and should be configured differently (e.g., the proposed annexation includes only part of an island).
- Irregular boundaries can have a major impact on the effectiveness and efficiency of providing local services.
- The BRB relies on this objective to expand annexations, often at the city's request.
- Often cities are not proposing to annex the entire UGA, or an entire island, that may result in inefficient provision of services.

**Create separate annexation methods for large and small annexations**

The advisory committee discussed streamlining the process for small annexations. This could be done by: (1) raising the BRB review threshold for small annexations; (2) further revising the requirements for island annexations by amending SHB 1755 (2003 session); or (3) eliminating all unincorporated islands on a date certain.

**1. Raise the boundary review board review threshold for small annexations**

The BRB review threshold in RCW 36.93.110 could be raised from areas less than ten acres and less than \$2 million in assessed value to at least twice the current amounts.

*Pros:*

- The Legislature has already recognized that small annexations need not go through an extensive process. This would simply raise the threshold to reflect that planning under the GMA has been done and land prices have increased since the current threshold was last amended in 1987.
- Special purpose districts tend to be less impacted by annexations when the area is small and the valuation low.
- Smaller annexations are more likely to be subject to the petition method because it is less costly and more certain than an election.

*Cons:*

- This would bypass review by the BRB for impacts on special purpose districts. For example, there would be no consideration of the impacts of a reduction on a fire district's tax base.
- Citizens in small annexation areas might lose the ability to vote. However, most small areas are not annexed by the election method as it is too costly for the annexing jurisdiction.
- Small annexations initiated by property owners may be more piecemeal and contribute less to the public interest.
- This may encourage more small annexations.

## **2. Further revise the requirements for island annexations**

The Annexation Study Advisory Committee discussed several possible amendments to SHB 1755 (enacted in the 2003 Legislative Session)<sup>62</sup> that would streamline the process for island annexations. SHB 1755 allows unincorporated territory within a UGA to be the subject of an interlocal agreement between a county and city or town for annexation of that territory to the city, if at least 60 percent of the boundaries of the area to be annexed are contiguous to the city or town or to more than one city or town. Annexation under this method is subject to a referendum if the referendum petition is signed by at least 15 percent of the voters and filed within 45 days of adoption of an annexation. This annexation method is allowed in the six “buildable lands” counties (Snohomish, King, Kitsap, Pierce, Thurston, and Clark). The proposed amendments are discussed separately below.

### **(a) Require counties and cities to jointly plan for urban islands**

#### *Pros:*

- Requiring consistent planning by counties and cities would ensure that urban islands develop consistently with the rest of the city surrounding the island.
- There is a presumption that joint planning has occurred if an interlocal agreement has been reached.
- If a county and city are required to do joint planning and development is consistent with city standards, the city would be more likely to annex.

#### *Cons:*

- Counties and cities prefer optional tools rather than additional requirements under the GMA. This may provide a disincentive to annex as the city may not have the resources to plan for islands.
- The cost for planning and provision of infrastructure could be significant.
- The costs to counties could be significant and might not be recovered after annexation.
- A mandate for counties to provide improvements to meet city code requirements could be an incentive for cities to delay annexation.

### **(b) Eliminate the referendum requirement for islands where there is an interlocal agreement between the county, city, and any special districts**

#### *Pros:*

- Elimination of the referendum requirement in SHB 1755 would provide an incentive for annexation based on an interlocal agreement.
- Citizens should be more amenable to annexation by a surrounding community.

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<sup>62</sup> SHB 1755 is codified at RCW 35.13.470 and 480, 35A.14.460 and 470, and 36.70A.110(7).

*Cons:*

- It would not allow for a vote of the citizens.
- Unless there was a requirement that the interlocal agreement include special purpose districts, the impacts of assumption of less than the entire district would not be addressed.

**(c) Raise the percentage of voters that must sign a petition for a referendum to the voters on a completed annexation to a simple majority (e.g., from 15 percent to 50 percent +1)**

*Pros:*

- Islands should be annexed to ensure efficient provision of services. Where an area is mostly surrounded by a city, the process for annexation should be streamlined to ensure annexation. Revision of the referendum requirement in SHB 1755 would provide an incentive for annexation based on an interlocal agreement.
- Citizens should be more amenable to annexation by a surrounding community.

*Cons:*

- It would make it more difficult to trigger a vote of the citizens.
- Unless there was a requirement that the interlocal agreement include special purpose districts, assumption issues might not be addressed.

**3. Eliminate all unincorporated islands on a date certain**

As of a date certain in statute, all unincorporated islands would become part of the surrounding city or town.

*Pros:*

- Islands should be annexed to ensure efficient provision of services. Where an area is mostly surrounded by a city, annexation should occur.
- Cities and counties would be more likely to jointly plan to ensure that the transfer of governance is smooth when it is required to occur.
- In cases where cities have completed such plans or joint planning has occurred, the impact of annexation is small.

*Cons:*

- There would be no consideration of a city's capacity to plan for or begin providing services to a previously unincorporated island.
- The impacts of assumption of less than the entire district would not be addressed.
- It would not allow for a vote of the citizens.

### **Lower the threshold for the petition method of annexation**

The petition method of annexation is the method most often used by cities. Several city representatives recommended changing the requirement for the petition method in RCW 35.13.125 for first- and second-class cities and towns to be consistent with the petition method requirement for code cities in RCW 35A.14.120. Currently, a petition for annexation by first- and second-class cities and towns must be signed by the owners of not less than 75 percent in value, according to the assessed value for general taxation, of the property for which annexation is petitioned. Petitions for annexation by a code city only require that the petition be signed by the owners of not less than 60 percent in value of the property for which annexation is petitioned.

The proposal would make the requirement of 60 percent in value of the property for which annexation is petitioned the same for all cities and towns. As an alternative, the requirement could be changed to a simple majority of the assessed value for all cities and towns.

#### *Pros:*

- There is no reason to treat code and “non-code” cities and towns differently with respect to annexations.
- Lowering the threshold for petitions to 60 percent for non-code cities and towns will facilitate the annexation process for those cities and towns.
- The Land Use Study Commission in its 1997 report recommended lowering the threshold for petitions to 60 percent for non-code cities and towns.
- Lowering the threshold for all cities and towns to a simple majority will increase the ability of all cities and towns to annex.

#### *Cons:*

- This revision provides no incentive for cities to jointly plan with and enter into interlocal agreements with counties and special purpose districts.
- Unless there was a requirement that the interlocal agreement include special purpose districts, the impacts of assumption of less than the entire district would not be addressed.

### **Require county-wide planning policies to identify “potential annexation or incorporation areas” in the six counties**

County-wide planning policies could be required to include identification of potential annexation areas that are assigned to a specific city or potential incorporation areas to make it clear which city is expected to annex an area. Counties, cities, and special districts would have to work together to identify potential annexation areas. This process would also have to recognize that some UGAs may be too big to annex and would need to be incorporated separately.

*Pros:*

- Counties are required to develop county-wide planning policies in consultation with the cities. A determination of the unincorporated UGA areas to be annexed by each city early in the county-wide planning policies should help counties, cities, and special districts to plan for annexation.
- Designation of potential annexation areas can help avoid conflict between two cities wishing to annex the same area. Conversely, it can define what city is expected to annex an area that no one may want to claim.<sup>63</sup>
- Requiring designation of potential annexation areas contiguous with more than one city would be consistent with current designation of an unincorporated UGA contiguous with only one city. In each case, it would be clear which city is expected to annex the area.
- Early designation can make future annexation more of a reality for citizens and spur development of a relationship with the annexing city.

*Cons:*

- County-wide planning policies alone will not accomplish annexation in every instance. In spite of its policy of designating PAAs, King County has a number of areas left in the unincorporated UGA that are very urban and should be annexed.
- Designation of an area for incorporation may not be enough if there is no local government to take on the task. Incorporations must be initiated by citizens, who may be happy with their “rural” lifestyle and the service they are receiving from the county and may choose not to incorporate.
- This proposal does not address other barriers to annexation by the designated city.

**Revise the UGA designation process to require a commitment from a city**

Ideas for revising the UGA designation process to ensure annexations included limiting UGA designations to those areas that a city is willing to annex, or putting a moratorium (e.g., an urban holding overlay) on expanding the UGA unless it will be annexed with urban services. These proposals require a commitment from a city before the UGA is designated.

*Pros:*

- Limiting UGA designations to those areas that a city is willing to annex and serve will ensure that designated urban areas are provided with urban services.
- Counties will be unable to designate UGAs that they are interested in continuing to serve (this could be considered a pro or con depending upon the county’s perspective about UGAs).

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<sup>63</sup> For example, in South Snohomish County, there are overlapping and unclaimed areas among Everett, Mukilteo, Mill Creek, and Lynnwood. See Appendix C.5.

*Cons:*

- Areas that are already urbanized and should be annexed by a city may not be designated as a UGA consistent with the goals and requirements of the GMA if a city is not willing to annex and serve them.

**Restructure the public process to get special districts and citizens involved earlier**

Special purpose districts and citizens expressed an interest in requiring their involvement earlier in the planning process prior to annexations. The GMA requires early and continuous public participation in the planning process, including the designation of UGAs. There is no requirement to involve special purpose districts in the planning process under the GMA, although consultation and coordination is encouraged by the state. Special districts are required to comply with local plans and regulations governing development of their facilities. Special districts would like to be consulted prior to designation of UGAs and planning for capital facilities.

*Pros:*

- Early participation in UGA discussions by all interested parties is critical to planning for development.
- Requiring consultation with special districts would inform the planning process and could encourage interlocal agreements that address issues of assumption.
- The current planning process often ignores the role of fire commissioners and other special purpose government elected representatives of citizens in an area proposed for annexation. Acknowledging that role in an intergovernmental planning process helps prevent the opposition of special districts to annexation.
- Early citizen involvement helps establish a relationship with a future annexing city and educates citizens about the benefits of annexation.

*Cons:*

- There is no need for additional requirements for involving citizens. The GMA is very clear that citizens must be involved early and continuously in the planning process. The issue is the need for joint planning in annexation areas that can more effectively engage and educate citizens.
- Special purpose districts also have a responsibility to get involved in the comprehensive planning process under GMA. They need to reach out to counties and cities with information and their concerns. The planning process allows them to be involved now.

**Encourage cities to actively reach out to adjacent communities and educate the public regarding the city and the benefits of annexation**

Encourage cities to work more closely with residents in potential annexation areas. Encourage cities to hold public meetings and to engage adjacent communities in the planning process during UGA designation and the development of any joint plans with the county and/or special districts.

*Pros:*

- Cities encounter less opposition to annexation when residents and business have had a chance to develop a relationship with an annexing city.
- Property owners are less likely to oppose annexation if they fully understand the costs and benefits of annexation.

*Cons:*

- Engaging the public in meetings and hearings can be expensive and time consuming, especially for smaller cities and towns.

**Recognize the boundary review board's ability to engage citizens and provide impartial information regarding annexations**

The BRB has no stake in the outcome of the annexation and is seen as an impartial provider of information to the public. It can also provide information that a city may not. In the new city incorporation process, the BRB holds a public hearing after the initiator submits a notice to the county. This could be done for annexations early in the process upon the request of a county or city.

*Pros:*

- If there is no vote, the educational forum provided by the BRB may provide citizens with more confidence in the plan and decision to annex.
- It is often difficult to engage citizens in planning and the UGA designation process prior to an annexation because the decisions are perceived as more theoretical than an annexation.

*Cons:*

- If good planning and public involvement has occurred, further education by the BRB may not be needed.
- The BRBs are voluntary and do not have extensive resources to work with citizens. Additional resources would probably have to come from counties.

**Recommendations for annexation process – Growth management, annexation, and boundary review boards**

Given Washington's history of local governance, any recommendation must recognize the need for coordination and collaboration. Joint planning and interlocal agreements should be encouraged and incentives provided. Joint planning and interlocal agreements can include the following benefits:

- Provide for transition of tax revenues and/or revenue-sharing to ease the capital facilities and operating costs of transition to counties, cities, and special districts.
- Allow for phasing in of city infrastructure provision and services and phasing out of county and/or special district infrastructure and services.
- Engage citizens early in the planning process and build relationships between the community and an annexing city.
- Engage affected special districts early in the process and addresses issues of assumption.

- Authorize county collection of impact fees in the annexation area for future provision of city services, e.g., acquisition of parks.
- Ensure planning for a future annexation area is consistent with planned patterns of development within the city.
- Ensure the smooth transfer of permitting authority.

There are a number of good examples around the state where joint planning and interlocal agreements have facilitated the transfer of governance from the county and special districts to an annexing city. Please see Appendix J for a few of these examples.

The advisory committee recognized the importance of addressing planning and infrastructure financing issues in any interlocal agreement, but also recognized that participating entities would be best able to identify what basic issues would need to be addressed in an agreement. However, where state funding or other incentives are provided for joint planning and/or interlocal agreements, some minimum standard for what elements or issues are addressed by the participating local governments in the plan or agreement should be considered. As with financing, an array of tools should be available to address the unique needs of a community. Finally, and equally important, citizens need to understand and be involved in the process.

## **1. Limit boundary review board review when joint planning and/or interlocal agreements have been reached**

(a) Revise RCW 36.93.157 to provide that the BRB must determine the consistency of the annexation with RCW 36.70A.020 (GMA goals), 36.70A.110 (designation of the UGA), and 36.70A.210 (county-wide planning policies), except when the county and city have jointly adopted a plan for the area and there is an interlocal agreement. If joint planning has occurred and an interlocal agreement has been adopted, the BRB must determine the annexation consistent with the requirements of RCW 36.70A.020, 110 and 210.

(b) Revise the applicability of the “urban in character” objective in RCW 36.93.180(8). The objective could be eliminated, or be determined to have been met, in counties fully planning under the GMA because cities are not allowed to annex outside of designated UGAs in those counties. The “urban in character” objective would remain applicable in counties not fully planning under the GMA because no UGA has been designated consistent with GMA requirements.

(c) More clearly define the applicability of the “prevention of abnormally irregular boundaries” objective in RCW 36.93.180(4), or eliminate the objective where joint planning has occurred.

## **2. Create more streamlined annexation methods for small annexations**

(a) Raise the BRB threshold in RCW 36.93.110 from areas less than ten acres and less than \$2 million in assessed value to at least twice the current amounts. In raising the



threshold, consideration should be given to an additional threshold that would address any impacts to a special district resulting from a reduction in its tax or ratepayer base.

(b) Further revise the requirements for island annexations (SHB 1755 enacted in the 2003 Legislative Session):<sup>64</sup>

(i) Require counties and cities to jointly plan for urban islands.

(ii) Raise the percentage of voters that must sign a petition for a referendum to the voters on a completed annexation to a simple majority (e.g., from 15 percent to 50 percent +1).

### **3. Revise the petition method of annexation to require signature of owners of 60 percent of the value of the property in the proposed annexation for both code and non-code cities and towns**

Change the requirement for the petition method in RCW 35.13.125 for first- and second-class cities and towns to be consistent with the petition method requirement for code cities in RCW 35A.14.120. This would make the requirement of 60 percent in value of the property for which annexation is petitioned the same for all cities and towns.

### **4. Consider requiring counties, cities, and special districts to work together to identify potential annexation and incorporation areas in the county-wide planning policies**

Consider requiring counties, cities, and special districts to work together to identify potential annexation areas in the county-wide planning policies that are assigned to a specific city to make it clear which city is expected to annex an area. County-wide planning policies should also recognize that some unincorporated UGAs may be too big to annex and will need to be designated for incorporation.

### **5. Enhance the public process for designating UGAs and annexations**

(a) Encourage counties, cities, and special purpose districts to work together in the planning process under the GMA through consultation and coordination. Consultation and coordination can be encouraged through financial incentives for joint planning and interlocal agreements discussed in the Local Revenues and Expenditures recommendations above.

(b) Encourage counties and cities to work more closely with residents in potential annexation areas and to educate them regarding the costs and benefits of annexation. Encourage cities to hold public meetings and to engage adjacent communities in the planning process during UGA designation and the development of any joint plans with the county and/or special districts.

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<sup>64</sup> SHB 1755 is codified at RCW 35.13.470 and 480, 35A.14.460 and 470, and 36.70A.110(7).

(c) Recognize the BRB's public outreach and education role. The BRB has no stake in the outcome of the annexation and is seen as an impartial provider of information to the public. It can also provide information that a city may not. In the new city incorporation process, the BRB holds a public hearing after the initiator submits a notice to the county. This could be done for annexations early in the process upon the request of a county or city.

## **Conclusion**

The recommendations for local revenues and expenditures must be considered in conjunction with the recommendations for revisions to the annexation process as they are interdependent. Incentives for joint planning, interlocal agreements, and capital investment must have funding to ensure their success.

Therefore, CTED submits the options discussed above for the Legislature to consider with the recommendation that a number of them be considered together in order to provide an array of tools and funding sources for local governments. Each community has distinct challenges and issues that will require a unique package to address its individual needs.